

CHAPTER He-P 800 RESIDENTIAL CARE AND HEALTH FACILITY RULES

PART He-P 805 SUPPORTED RESIDENTIAL HEALTH CARE FACILITY LICENSING RULES

He-P 805.01 Purpose. The purpose of this part is to set forth the classification of and licensing requirements for supported residential health care facilities (SRHCF) pursuant to RSA 151:2, I(e)(2) and as described in RSA 151:9, VII(a)(2).

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93, EXPIRED: 7-14-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.02 Scope. This part shall apply to any individual, agency, partnership, corporation, government entity, association or other legal entity operating a SRHCF pursuant to RSA 151:9, VII(a)(2).

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.03 Definitions.

(a) "Abuse" means any one of the following:

- (1) "Emotional abuse" means the misuse of power, authority, or both, verbal harassment, or confinement which results or could result in the mental anguish or emotional distress of residents;
- (2) "Physical abuse" means the misuse of physical force which results or could result in physical injury to residents; or
- (3) "Sexual abuse" means contact or interaction of a sexual nature involving residents without his or her informed consent.

(b) "Activities of daily living (ADL)" means basic daily routine tasks such as eating, transferring, toileting, bathing, dressing, and medication management.

(c) "Addition" means an increase in the building area, aggregate floor area, building height, or number of stories of a structure.

(d) "Administer" means an act whereby one or more doses of a medication is instilled into the body, applied to the body of, or otherwise given to a person for immediate consumption or use by an individual authorized by law, including RSA 318-B and RSA 326-B.

(e) "Administrative remedy" means an action imposed upon a licensee in response to non-compliance with RSA 151 and He-P 805.

(f) "Administrator" means the licensee or individual appointed by the licensee to be responsible for all aspects of the daily operation of the licensed premise.

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(g) “Admission” means the point in time when a resident, who has been accepted by a licensee for the provision of services, physically moves into the facility.

(h) “Agent” means an adult to whom authority to make health care decisions is delegated under an activated durable power of attorney for health care executed in accordance with RSA 137-J.

(i) “Applicant” means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate an SRHCF pursuant to RSA 151.

(j) “Assessment” means an evaluation of the resident to determine the care and services that are needed.

(k) “Care plan” means a written guide developed by the licensee, in consultation with the resident and/or guardian, agent or personal representative, if applicable, as a result of the assessment process for the provision of care and services as required by He-P 805.16(d) - (j).

(l) “Change of ownership” means the transfer of the controlling interest of an established SRHCF to any individual, agency, partnership, corporation, government entity, association or other legal entity.

(m) “Chemical restraints” means any medication prescribed to control a resident’s behavior or emotional state without a supporting diagnosis, or without the presence of a hospice plan of care, or for the convenience of program personnel.

(n) “Core services” means those services provided by the licensee that are included in the basic rate.

(o) “Commissioner” means the commissioner of the New Hampshire department of health and human services, or his or her designee.

(p) “Days” means calendar days unless otherwise specified in the rule.

(q) “Deficiency” means any action, failure to act or other set of circumstances that cause a licensee to be out of compliance with RSA 151 or He-P 805 or other federal and state requirements.

(r) “Department” means the New Hampshire department of health and human services at 129 Pleasant Street, Concord, NH 03301.

(s) “Direct care” means the provision of hands on care and services to a resident.

(t) “Directed plan of correction” means a plan developed and written by the department that specifies the actions the licensee must take to correct identified deficiencies.

(u) “Elopement” means when a resident who is cognitively, physically, mentally, emotionally, and/or chemically impaired and is no longer making decisions on their own behalf, wanders away, walks away, runs away, escapes, or otherwise leaves a caregiving facility or environment unsupervised, unnoticed, and/or prior to their scheduled discharge.

(v) “Emergency plan” means a document outlining the responsibilities of personnel in an emergency.

(w) “Exploitation” means the illegal use of a resident’s person or property for another person’s profit or advantage, or the breach of a fiduciary relationship through the use of a person or person’s property for any purpose not in the proper and lawful execution of a trust, including, but not limited to, situations where a person obtains money, property, or services from a resident through the use of undue influence, harassment, duress, deception, or fraud.

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(x) “Guardian” means a person appointed in accordance with RSA 464-A to make informed decisions relative to the resident’s health care and other personal needs.

(y) “Health care occupancy” means facilities that provide sleeping accommodations for individuals who are incapable of self-preservation.

(z) “Household member” means the caregiver, all family members and any other individuals age 17 or older, other than residents, that reside at the licensed premises for more than 30 days.

(aa) “Infectious waste” means those items specified by Env-Wm 2604.01.

(ab) “In-service” means an educational program, which is designed to increase the knowledge, skills, and overall effectiveness of personnel.

(ac) “Inspection” means the process followed by the department to determine an applicant’s or a licensee’s compliance with RSA 151 and He-P 805 or to respond to allegations of non-compliance with RSA 151 and He-P 805.

(ad) “License” means the document issued to an applicant at the start of operation as an SRHCF which authorizes operation in accordance with RSA 151 and He-P 805, and includes the name of the licensee, the name of the business, the physical address, the license category, the effective date and license number.

(ae) “License certificate” means the document issued by the department to an applicant or licensee that, in addition to the information contained on a license, includes the name of the administrator, the type(s) of services authorized and the number of beds that the SRHCF is licensed for.

(af) “Licensed practitioner” means a:

- (1) Medical doctor;
- (2) Physician's assistant;
- (3) Advanced practice registered nurse;
- (4) Doctor of osteopathy;
- (5) Doctor of naturopathic medicine; or
- (6) Any other practitioner with diagnostic and prescriptive powers licensed by the appropriate state licensing board.

(ag) “Licensed premises” means the building that comprises the physical location that the department has approved for the licensee to conduct operations in accordance with its license.

(ah) “Licensee” means any person or other legal entity to which a license has been issued pursuant to RSA 151.

(ai) “Licensing classification” means the specific category of services authorized by a license.

(aj) “Mechanical restraint” means locked, secured and/or alarmed SRHCFs or units within an SRHCF, or anklets, bracelets or similar devices that cause a door to automatically lock when approached, thereby preventing a resident from freely exiting the SRHCF or unit within.

(ak) “Medication” means a substance available with or without a prescription, which is used as a curative or remedial substance.

(al) “Modification” means:

- (1) The reconfiguration of any space;
- (2) The addition, relocation, or elimination of any door or window;
- (3) The addition or elimination of load-bearing elements;
- (4) The reconfiguration or extension of any system; or
- (5) The installation of any additional equipment.

(am) “Neglect” means an act or omission that results or could result in the deprivation of essential services or supports necessary to maintain the minimum mental, emotional or physical health and safety of a resident.

(an) “Notice to correct” means a report issued pursuant to RSA 151:6-a, II, following a life safety inspection when a facility is found to be out of compliance with applicable life safety rules or codes.

(ao) “Nursing care plan” means a written guide developed by a nurse in consultation with the resident and/or guardian, agent, or personal representative, that lists the interventions necessary to meet the resident’s nursing needs.

(ap) “One and 2 family dwelling unit” means one- and 2-family dwellings, which shall include those buildings containing not more than 2 dwelling units in which each dwelling unit is occupied by members of a single family with not more than 3 outsiders, if any, accommodated in rented rooms.

(aq) “Orders” means prescriptions, instructions for treatments, special diets or therapies given by a licensed practitioner, or other professional with prescriptive powers.

(ar) “Over-the-counter medications” means medications for which a prescription is not required.

(as) “Patient rights” means the privileges and responsibilities possessed by each resident provided by RSA 151:21.

(at) “Performance based design” means an engineering approach to fire protection design and construction based on:

- (1) Established fire safety goals and objectives;
- (2) Deterministic and probabilistic analysis of fire scenarios; and
- (3) Quantitative assessment of design alternatives against the fire safety goals and objectives using accepted engineering tools, methodologies, and performance criteria.

(au) “Personal assistance” means providing or assisting a resident in carrying out activities of daily living.

(av) “Personal representative” means a person designated in accordance with RSA 151:19, V to assist the resident for a specific, limited purpose or for the general purpose of assisting the resident in the exercise of any rights.

(aw) “Personnel” means individual(s) employed by the SRHCF.

(ax) “Physical restraint” means the use of hands-on or other physically applied technique to physically limit the resident’s freedom of movement, which includes but are not limited to forced escorts, holding, prone restraints or other containment techniques.

(ay) “Plan of correction (POC)” means a plan developed and written by the licensee, which specifies the actions that will be taken to correct noncompliance with applicable rules or codes identified at the time of a clinical or life safety inspection conducted pursuant to RSA 151:6-a or during the course of a complaint investigation conducted pursuant to RSA 151:6.

(az) “Pro re nata (PRN) medication” means medication taken as circumstances may require.

(ba) “Procedure” means a licensee’s written, standardized method of performing duties and providing services.

(bb) “Protective care” means the provision of resident monitoring services, including but not limited to:

- (1) Knowledge of resident whereabouts; and
- (2) Minimizing the likelihood of accident or injury.

(bc) “Reconstruction” means the reconfiguration of a space:

- (1) That affects an exit or a corridor shared by more than one occupant space; or
- (2) Such that the rehabilitation work area is not permitted to be occupied because existing means of egress and fire protection systems, or their equivalent, are not in place or continuously maintained.

(bd) “Renovation” means the replacement in kind or strengthening of load-bearing elements, or the refinishing, replacement, bracing, strengthening, or upgrading of existing materials, elements, equipment, or fixtures, without involving the reconfiguration of spaces.

(be) “Repair” means repair, other than the patching, restoration, or painting of materials, elements, equipment, or fixtures for the purpose of maintaining such materials, elements, equipment, or fixtures in good or sound condition.

(bf) “Reportable incident” means an occurrence of any of the following while the resident is either in the SRHCF or in the care of SRHCF personnel:

- (1) The unanticipated death of the resident;
- (2) An injury to a resident, that is of a suspicious nature of potential abuse or neglect under circumstances where the injury was not observed by any person or the cause of the injury could not be explained by the resident; or
- (3) The elopement or unexplained absence of a resident from the SRHCF.

(bg) “Resident” means any person admitted to or in any way receiving care, services or both who resides in a SRHCF.

(bh) “Resident assessment tool (RAT)” means the document developed by the department to assess the needs of a resident or potential resident as required by RSA 151:5-a, I.

(bi) “Residential board and care”, as defined in NFPA 101 of the fire code, means a facility where residents are provided with personal care and activities that foster continued independence and residents are

trained and required to respond to fire drills to the extent they are able. These facilities are further grouped as “small”, 4-16 beds or “large”, over 16 beds.

(bj) “Residential care facility”, as defined in NFPA 101 of the fire code, means a long term care residence providing personal assistance at the residential care level pursuant to RSA 151:9, VII(a)(1).

(bk) “Resident record” means a separate file maintained for each resident, which includes all documentation required by RSA 151 and He-P 805 and as required by other federal and state law.

(bl) “Respite care” means the admission of a person from his or her primary residence to an SRHCF, on either a planned or emergency basis, for a period not to exceed 30 days in order to relieve the primary caregiver from the demands of providing home-based care.

(bm) “Self administration with assistance” means the resident takes his or her own medication(s) after being prompted by personnel, but without requiring physical assistance from others.

(bn) “Self administration without assistance” means an act whereby the resident takes his or her own medication(s) without the assistance of another person.

(bo) “Self directed medication administration” means an act whereby a resident, who has a physical limitation that prohibits him or her from self-administering, directs personnel to physically assist in the medication process.

(bp) “Service” means a specific activity performed by the licensee, either directly or indirectly, to benefit or assist a resident.

(bq) “Severe mobility impairment” means the ability to move to stairs but without the ability to use them.

(br) “Significant change” means a change in cognitive or physical capabilities that decreases a resident's ability to care for himself beyond an episodic event.

(bs) “State monitoring” means the placement of individuals by the department at an SRHCF to monitor the operation and conditions of the facility.

(bt) “Stock medication” means over-the-counter medication available for use by more than one resident.

(bu) “Supported residential health care facility (SRHCF)” means a long-term care residence providing personal assistance at the supported residential care level pursuant to RSA 151:9, VII(a)(2).

(bv) “Therapeutic diet” means a diet ordered by a licensed practitioner or other licensed professional with prescriptive authority as part of the treatment for disease, clinical conditions, or increasing or decreasing specific nutrients in the food consumed by the resident.

(bw) “Unexplained absence” means an incident involving a resident leaving the premises of the SRHCF without the knowledge of the SRHCF personnel in a manner that is contrary to their normal routine.

(bx) “Written and signed orders” means a document, produced electronically or via paper, by a licensed practitioner for medications, treatments, recommendations, and referrals, and signed by the licensed practitioner using terms such as authorized by, authenticated by, approved by, reviewed by or any other term that denotes approval by the licensed practitioner.

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.04 Initial License Application Submission.

(a) Each applicant for a license shall comply with the requirements of RSA 151:4, I–III-a and submit the following to the department:

- (1) A completed application form entitled “Application for Residential or Health Care License” (3/11/2013), signed by the applicant or 2 of the corporate officers, affirming to the following:

“I affirm that I am familiar with the requirements of RSA 151 and the rules adopted thereunder and that the premises are in full compliance. I understand that providing false information shall be grounds for denial, suspension, or revocation of the license and the imposition of a fine.”;

- (2) A floor plan of the prospective SRHCF;
- (3) If applicable, proof of authorization from the New Hampshire secretary of state to do business in the state of New Hampshire in the form of one of the following:
  - a. “Certificate of Authority,” if a corporation;
  - b. “Certificate of Formation,” if a limited liability corporation; or
  - c. “Certificate of Trade Name,” where applicable;
- (4) The applicable fee in accordance with RSA 151:5, IX, payable in cash or, if paid by check or money order, in the exact amount of the fee made payable to the “Treasurer, State of New Hampshire”;
- (5) A resume identifying the qualifications of the SRHCF administrator;
- (6) Copies of applicable licenses for the SRHCF administrator;
- (7) Written local approvals as follows:
  - a. For an existing building, the following written local approvals shall be obtained no more than 90 days prior to submission of the application, from the following local officials or if there is no such official(s), from the board of selectmen or mayor:
    1. The health officer verifying that the applicant complies with all applicable local health requirements and drinking water and wastewater requirements;
    2. The building official verifying that the applicant complies with all applicable state building codes and local building ordinances;
    3. The zoning officer verifying that the applicant complies with all applicable local zoning ordinances; and
    4. The fire chief verifying that the applicant complies with the state fire code, including the health care chapter of NFPA 101 as adopted by the department of safety, and local fire ordinances applicable for a health care facility; and

b. For a building under construction, the written approvals required by a. above shall be submitted at the time of application based on the local official's review of the building plans and again upon completion of the construction project; and

(8) If the SRHCF uses a private water supply, documentation that the water supply has been tested in accordance with RSA 485 and Env-Ws 313.01 and Env-Ws 314.01.

(b) The applicant shall mail or hand-deliver the documents to:

Department of Health and Human Services  
Health Facilities Administration  
129 Pleasant Street  
Concord, NH 03301

(c) The applicant shall have on hand and available for inspection at the time of the initial onsite inspection the following:

(1) The results of a criminal records check from the NH department of safety for the administrator and each household member, as applicable;

(2) A copy of the SRHCF's admission agreement; and

(3) A copy of the SRHCF's standard disclosure form.

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.05 Processing of Applications and Issuance of Licenses.

(a) An application for an initial license shall be complete when the department determines that all items required by He-P 805.04(a) have been received.

(b) If an application does not contain all of the items required by He-P 805.04(a) the department shall notify the applicant in writing of the items required before the application can be processed.

(c) Any licensing fee submitted to the department in the form of a check or money order and returned to the state for any reason, shall be processed in accordance with RSA 6:11-a.

(d) Licensing fees shall not be transferable to any other application(s).

(e) Unless a waiver has been granted, the department shall deny a licensing request in accordance with He-P 805.13(b) after reviewing the information in He-P 805.04(c)(1) above if it determines that the administrator or a household member has been convicted of a felony in this or any other state, has been convicted of sexual assault or other violent crime, assault, fraud, abuse, neglect or exploitation or otherwise poses a threat to the health, safety or well-being of a resident.

(f) Following an inspection, a license shall be issued if the department determines that an applicant requesting an initial license is in full compliance with RSA 151 and He-P 805.



(g) The license in (f) above shall be good for a period of one year from the last day of the month in which it is issued.

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.06 License Expirations and Procedures for Renewals.

(a) A license shall be valid on the date of issuance and expire the following year on the last day of the month it was issued unless a completed application for renewal has been received.

(b) Each licensee shall complete and submit to the department an application form pursuant to He-P 805.04(a)(1) at least 120 days prior to the expiration of the current license.

(c) The licensee shall submit with the renewal application:

- (1) The materials required by He-P 805.04(a)(1) and (4);
- (2) The current license number;
- (3) A request for renewal of any existing non-permanent waiver previously granted by the department, in accordance with He-P 805.10(f), if applicable;
- (4) A list of any current employees who have a permanent waiver granted in accordance with He-P 805.18(c); and
- (5) A copy of any non-permanent or new variances applied for or granted by the state fire marshal, in accordance with Saf-C 6005.03 - 6005.04.

(d) In addition to (c) above, if a private water supply is used, the licensee shall provide documentation that every 3 years the water supply has been tested for bacteria and nitrates and determined to be at acceptable levels, in accordance with Env-Ws 313.01 for bacteria and Env-Ws 314.01 for nitrates.

(e) Following an inspection as described in He-P 805.09, a license shall be renewed if the department determines that the licensee:

- (1) Submitted an application containing all the items required by (c) and (d) above as applicable, prior to the expiration of the current license;
- (2) Has submitted a POC that has been accepted by the department and implemented by the licensee if deficiencies were cited at the last licensing inspection or investigation; and

- (3) Is found to be in compliance with RSA 151 and He-P 805 at the renewal inspection.

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.07 SRHCF Construction, Modifications or Structural Alterations.

(a) Sixty days prior to initiating construction, the SRHCF shall provide to the department notice and accurate architectural plans or drawings, unless otherwise directed, that show the room designation(s) and exact measurements of each area to be licensed, including windows and door sizes and each rooms use for the following:

- (1) A new building;
- (2) Alterations to any resident area;
- (3) Alterations that require approval from local or state authorities; or
- (4) Modifications that might affect compliance with the health and safety, fire or building codes, including but not limited to, fire suppression, detection systems and means of egress.

(b) Architectural sprinkler and fire alarm plans shall be submitted to the NH state fire marshal's office as required by RSA 153:10-b, V.

(c) Rehabilitation work on existing buildings shall be classified as one of the following work categories in accordance with NFPA 101, section 43.2.2.1 and require the submission of architectural plans or drawings to the department, unless directed otherwise:

- (1) Repair;
- (2) Renovation;
- (3) Modification;
- (4) Reconstruction;
- (5) Change of use or occupancy classification; or
- (6) Addition.

(d) The department shall review plans for construction, modifications, or structural alterations of an SRHCF for compliance with all applicable sections of RSA 151 and He-P 805 and notify the applicant or licensee as to whether the proposed changes comply with these requirements.

(e) Department approval shall not be required prior to initiating construction, renovations, or structural alterations, however an applicant or licensee who proceeds prior to receiving approval shall do so at their own risk.

(f) The SRHCF shall comply with all applicable licensing rules when doing construction, modifications, or structural alterations.

(g) A licensee or applicant constructing, modifying, or structurally altering a building shall comply with the following:

- (1) The state fire code, Saf-C 6000, including but not limited to the health care chapter of NFPA 101, as adopted by the commissioner of the department of safety under RSA 153, and as amended pursuant to RSA 153:5, I, by the state fire marshal with the board of fire control;
- (2) The state building code as defined in RSA 155-A:1, IV, as amended by the building code review board pursuant to RSA 155-A:10, V; and
- (3) Local rules, regulations, and ordinances.

(h) All SRHCFs newly constructed or renovated after the 2015 effective date of He-P 805 shall follow the Facility Guidelines Institutes (FGI) "Guidelines for Design and Construction of Health Care Facilities," Residential Healthcare chapter, 2010 edition, as applicable, as available as noted in Appendix A.

(i) Where renovation or structural alteration work is done within an existing facility, all such work shall comply, insofar as practicable, with applicable sections of the FGI "Guidelines for Design and Construction of Health Care Facilities," Residential Healthcare chapter, 2010 edition, as available as noted in Appendix A.

(j) Per the FGI "Guidelines for Design and Construction of Health Care Facilities," Residential Healthcare chapter, 2010 edition, as available as noted in Appendix A, and notwithstanding (i) above, where it is evident that a reasonable degree of safety is provided, the requirements for existing buildings shall be permitted to be modified if their application would be impractical in the judgment of the authority having jurisdiction.

(k) The department's bureau of health facilities administration shall be the authority having jurisdiction for the requirements in (h) above and shall negotiate compliance and grant waivers in accordance with He-P 805.10 as appropriate.

(l) Waivers granted by the department for construction or renovation purposes shall not require annual renewal unless the underlying reason or circumstances for the waivers change.

(m) Exceptions or variances pertaining to the state fire code referenced in (g)(1) above shall be granted only by the state fire marshal.

(n) The building or renovated space shall be subject to an inspection pursuant to He-P 805.09 prior to its use.

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.08 SRHCF Requirements for Organizational or Service Changes.

(a) The SRHCF shall provide the department with written notice at least 30 days prior to changes in any of the following:

- (1) Ownership;

- (2) Physical location;
- (3) Address;
- (4) Name;
- (5) Capacity; or
- (6) Services.

(b) When there is a change in the name, the SRHCF shall submit to the department a copy of the certificate of amendment from the New Hampshire secretary of state, if applicable.

(c) The SRHCF shall complete and submit a new application and obtain a new or revised license, license certificate or both, as applicable, prior to operating, for:

- (1) A change in ownership;
- (2) A change in the physical location; or
- (3) An increase in the number of residents or services beyond what is authorized under the current license.

(d) When there is a change in address without a change in location the SRHCF shall provide the department with a copy of the notification from the local, state or federal agency that requires the change.

(e) An inspection by the department shall be conducted prior to operation for changes in the following:

- (1) Ownership, unless an inspection was conducted within 90 days of the date of the change in ownership and a plan of correction designed to address any areas of noncompliance was submitted and accepted by the department;
- (2) The physical location;
- (3) An increase in the number of beds or residents;
- (4) A change in license category; or
- (5) A change in the life safety code occupancy chapter.

(f) A new license shall be issued for a change in ownership or a change in physical location.

(g) A revised license and license certificate shall be issued for changes in the SRHCF name.

(h) A revised license certificate shall be issued for any of the following:

- (1) A change of administrator;
- (2) A change in the number of residents from what is authorized under the current license; or
- (3) When a waiver has been granted.

(i) The SRHCF shall inform the department in writing as soon as practicable when there is a change in administrator and provide the department with the following:

- (1) The information specified in He-P 805.04(c)(1);
- (2) A resume identifying the name and qualifications of the new administrator; and

(3) Copies of applicable licenses for the new administrator.

(j) Upon review of the materials submitted in accordance with (i) above, the department shall make a determination as to whether the new administrator:

(1) Is disqualified by the information submitted in response to (i)(1) above; or

(2) Meets the qualifications for the position as specified in He-P 805.18 (g) and (h).

(k) If the department determines that the new administrator does not meet the qualifications, it shall so notify the program in writing so that a waiver can be sought or the program can search for a qualified candidate.

(l) A restructuring of an established SRHCF that does not result in a transfer of the controlling interest of the facility, but which might result in a change in the name of the facility or corporation, shall not constitute a change in ownership and a new license shall not be required.

(m) When there is to be a change in the services provided, the SRHCF shall provide the department with a description of the service change and, where applicable, identify what additional personnel will be hired and their qualifications, how the new services will be incorporated into the infection control and quality improvement programs and describe what changes, if any, in the physical environment will be made.

(n) The department shall review the information submitted under (m) above and determine if the added services can be provided under the SRHCF's current license.

(o) Licenses issued for a change in ownership shall expire on the date the license issued to the previous owner would have expired.

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

#### He-P 805.09 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 805, as authorized by RSA 151:6 and RSA 151:6-a, the licensee shall admit and allow any department representative at any time to inspect the following:

(1) The licensed premises;

(2) All programs and services provided by the SRHCF; and

(3) Any records required by RSA 151 and He-P 805.

(b) The department shall conduct a clinical and life safety code inspection, as necessary, to determine full compliance with RSA 151 and He-P 805 prior to:

(1) The issuance of an initial license;

(2) A change in ownership, except as allowed by He-P 805.08(e)(1);

- (3) A change in the physical location of the SRHCF;
- (4) A change in the licensing classification, as defined in He-P 805.03(ai);
- (5) A change in the life safety code occupancy chapter the facility is licensed under;
- (6) An increase in the number of beds;
- (7) Occupation of space after construction, renovations or alterations; or
- (8) The renewal of a license.

(c) In addition to (b) above, the department shall conduct an inspection to verify the implementation of any POC accepted or issued by the department.

(d) A notice of deficiencies for clinical inspections or notice to correct for life safety inspections shall be issued when, as a result of any inspection, the department determines that the SRHCF is in violation of any of the provisions of He-P 805, RSA 151, or any applicable code.

(e) If deficiencies were cited in either a notice to correct or a deficiency report, the licensee shall submit a POC, in accordance with He-P 805.12(c)

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

#### He-P 805.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 805 shall submit a written request for a waiver to the department that includes:

- (1) The specific reference to the rule for which a waiver is being sought;
- (2) A full explanation of why a waiver is necessary; and
- (3) The period of time for which the waiver is sought if less than permanent.

(b) A waiver shall be permanent unless the department specifically places a time limit on the waiver.

(c) A request for waiver shall be granted if the department determines that the alternative proposed by the applicant or licensee:

- (1) Meets the objective or intent of the rule;
- (2) Does not negatively impact the health, safety or well-being of the residents; and
- (3) Does not affect the quality of resident services.

(d) The licensee's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.

(e) Waivers shall not be transferable.

(f) When a licensee wishes to renew a time limited waiver beyond the approved period of time, the licensee shall apply for a new waiver by submitting the information required by (a) above:

(1) When the licensee submits its application for license renewal pursuant to He-P 805.06(b) and (c); or

(2) At least 15 days prior to the expiration of the waiver if the waiver expires on a date other than the expiration date of the licensing certificate.

(g) The request to renew a waiver shall be subject to (b) through (f) above.

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.11 Complaints.

(a) The department shall respond to any complaint that meets the following conditions:

(1) The alleged violation(s) occurred not more than 6 months prior to the date the department was made aware of the allegation(s);

(2) The complaint is based upon the complainant's first-hand knowledge regarding the allegation(s) or on information reported directly to the complainant by a person who has first-hand knowledge regarding the allegation(s); or

(3) There is sufficient specific information for the department to determine that the allegation(s), if proven to be true, would constitute a violation of any of the provisions of RSA 151 or He-P 805.

(b) When practicable the complaint shall be in writing and contain the following information:

(1) The name and address of the SRHCF, or the alleged unlicensed individual or entity;

(2) The name, address and telephone number of the complainant; and

(3) A description of the situation that supports the complaint and the alleged violation(s) of RSA 151 or He-P 805.

(c) Investigations shall include all techniques and methods for gathering information which are appropriate to the circumstances of the complaint, including, but not limited to:

(1) Requests for additional information from the complainant;

(2) A physical inspection of the premises;

(3) Review of any records that might be relevant and have probative value; and

(4) Interviews with individuals who might have information that is relevant to the investigation and might have probative value.

(d) For a licensed SRHCF, the department shall:

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(1) Provide written notification of the results of the investigation to the licensee along with an inspection report if deficiencies were found as a result of the investigation; and

(2) Notify any other federal, state or local agencies of suspected violations of their statutes or rules based on the results of the investigation, as appropriate.

(e) If the department determines that the complaint is unfounded or does not violate any statutes or rules, the department shall notify the licensee in writing and take no further action.

(f) If the investigation results in deficiencies being cited, the licensee shall be required to submit a POC in accordance with He-P 805.12(c).

(g) For the unlicensed individual or entity, the department shall provide written notification to the owner or person responsible that includes:

(1) The date of the investigation;

(2) The reasons for the investigation; and

(3) Whether or not the investigation resulted in a determination that the services being provided require licensing under RSA 151:2, IV.

(h) In accordance with RSA 151:7-a, II, the owner or person responsible shall be allowed 7 days from the date of receipt of the notice required by (g) above to respond to a finding that they are operating without a license or submit a completed application for a license.

(i) If the owner of an unlicensed facility does not comply with (h) above, or if the department does not agree with the owner's response, the department shall:

(1) Issue a written warning to immediately comply with RSA 151 and He-P 805; and

(2) Provide notice stating that the individual has the right to appeal the warning in accordance with RSA 151:7-a, III.

(j) Any person or entity who fails to comply after receiving a warning as described in (i) above shall be subject to an action by the department for injunctive relief under RSA 151:17.

(k) Complaint investigation files shall be confidential in accordance with RSA 151:13, and shall not be disclosed publicly, but shall be released by the department on written request only:

(1) To the department of justice when relevant to a specific investigation;

(2) To law enforcement when relevant to a specific criminal investigation;

(3) When a court of competent jurisdiction orders the department to release such information; or

(4) In connection with an adjudicative proceeding relative to the licensee.

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15



He-P 805.12 Administrative Remedies.

(a) The department shall impose administrative remedies for violations of RSA 151, He-P 805 or other applicable licensing rules, including:

- (1) Requiring a licensee to submit a POC;
- (2) Imposing a directed POC upon a licensee;
- (3) Imposing conditions upon a license;
- (4) Imposing fines upon an unlicensed individual, applicant or licensee; or
- (5) Monitoring of a licensee.

(b) When administrative remedies are imposed, the department shall provide written notice, as applicable, which:

- (1) Identifies each area in which the licensee is not in compliance with RSA 151 or a provision of these rules;
- (2) Identifies the specific remedy(s) that has been imposed; and
- (3) Provides the following information:
  - a. The right to a hearing in accordance with RSA 541-A and He-C 200 prior to imposition of a fine; and
  - b. The automatic reduction of a fine by 25% if the fine is paid within 10 days of the date on the written notice from the department and the deficiency has been corrected, or a POC has been accepted and approved by the department.

(c) A POC shall be developed and enforced in the following manner:

- (1) Upon receipt of a notice of deficiencies, or a notice to correct, the licensee shall submit its POC for each item, written in the appropriate space on the notice and containing:
  - a. How the licensee intends to correct each area of noncompliance;
  - b. What measures will be put in place, or what system changes will be made to ensure that the noncompliance does not recur; and
  - c. The date by which each area of noncompliance shall be corrected;
- (2) The licensee shall submit a POC to the department within 21 days of the date on the letter that transmitted the inspection/investigation report unless the licensee requests, either verbally or in writing, and the department agrees, to extend that deadline, based on the following criteria:
  - a. The licensee demonstrates that he or she has made a good faith effort to develop and submit the POC within the 21 calendar day period but has been unable to do so; and
  - b. The department determines that the health, safety or well-being of a resident will not be jeopardized as a result of granting the extension;
- (3) The department shall review and accept each POC that:
  - a. Achieves compliance with RSA 151 and He-P 805;

- b. Addresses all deficient practices as cited in the inspection/investigation report;
  - c. Prevents a new violation of RSA 151 or He-P 805 as a result of the implementation of the POC; and
  - d. Specifies the date upon which the deficiencies will be corrected;
- (4) If the POC is acceptable, the department shall issue a license certificate or provide written notification of acceptance of the POC, whichever is applicable;
- (5) If the POC is not acceptable:
- a. The department shall notify the licensee in writing of the reason for rejecting the POC;
  - b. The licensee shall develop and submit a revised POC within 14 days of the date of the written notification from the department that states the original POC was rejected unless, within the 14 day period, the licensee requests an extension, via telephone or in writing, and the department grants the extension, based on the following criteria:
    - 1. The licensee demonstrates that he or she has made a good faith effort to develop and submit the POC within the 14 day period but has been unable to do so; and
    - 2. The department determines that the health, safety or well being of a resident will not be jeopardized as a result of granting the waiver;
  - c. The revised POC shall comply with (c)(1) above and be reviewed in accordance with (c)(3) above; and
  - d. If the revised POC is not acceptable to the department, or is not submitted within 14 days of the date of the written notification from the department that states the original POC was rejected, the licensee shall be subject to a directed POC in accordance with (d) below and a fine in accordance with (f)(11) below;
- (6) The department shall verify the implementation of any POC that has been submitted and accepted by:
- a. Reviewing materials submitted by the licensee;
  - b. Conducting a follow-up inspection; or
  - c. Reviewing compliance during the next annual inspection;
- (7) Verification of the implementation of any POC shall only occur after the date of completion specified by the licensee in the plan; and
- (8) If the POC or revised POC has not been implemented by the completion date at the time of the next inspection, the licensee shall be:
- a. Notified by the department in accordance with He-P 805.12(b); and
  - b. Issued a directed POC in accordance with (d) below and shall be subject to a fine, as appropriate, in accordance with (f)(12) below.
- (d) The department shall develop and impose a directed POC that specifies corrective actions for the applicant or licensee to implement when:

- (1) As a result of an inspection, areas of noncompliance were identified that require immediate corrective action to protect the health and safety of the residents and personnel;
  - (2) A revised POC is not submitted within 14 days of the written notification from the department; or
  - (3) A revised POC submitted by the licensee has not been accepted.
- (e) If at the time of the next inspection the directed POC referenced in (d) above has not been implemented by the completion date stated in the directed POC, the department shall, as appropriate:
- (1) Impose a fine;
  - (2) Deny the application for a renewal of a license; or
  - (3) Revoke the license in accordance with He-P 805.13.
- (f) The department shall impose fines as follows:
- (1) For a failure to cease providing unlicensed services after being notified by the department of the need for a license, in violation of RSA 151:2, the fine shall be \$2000.00 for an applicant or unlicensed provider;
  - (2) For a failure to cease operations after a denial of a license or after receipt of an order to cease and desist immediately, in violation of RSA 151:2 and RSA 541-A:30, the fine for an applicant, unlicensed provider or a licensee shall be \$2000.00;
  - (3) For advertising services or otherwise representing themselves as having a license to provide services that they are not licensed to provide, in violation of RSA 151:2, III, the fine for an applicant, licensee or unlicensed provider shall be \$500.00;
  - (4) For a failure to transfer a resident whose needs exceed the services or programs provided by the SRHCF, in violation of RSA 151:5-a, the fine for a licensee shall be \$500.00;
  - (5) For admission of a resident whose needs exceed the services or programs authorized by the SRHCF licensing classification, in violation of RSA 151:5-a, II, and He-P 805.15(a) and (b), the fine for a licensee shall be \$1,000.00;
  - (6) For a failure to comply with the directives of a warning issued by the department, in violation of RSA 151:7-a and He-P 805.11(i), the fine for an unlicensed provider or a licensee shall be \$500.00;
  - (7) For a failure to submit a renewal application for a license at least 120 days prior to the expiration date, in violation of He-P 805.06(b), the fine for a licensee shall be \$100.00;
  - (8) For a failure to notify the department prior to a change of ownership, in violation of He-P 805.08(a), the fine for a licensee shall be \$500.00;
  - (9) For a failure to notify the department prior to a change in the physical location, in violation of He-P 805.08(c)(2), the fine for a licensee shall be \$500.00;
  - (10) For a failure to allow access by the department to the SRHCF's premises, programs, services or records, in violation of He-P 805.09(a), the fine for an applicant, unlicensed individual or licensee shall be \$2000.00;

- (11) For a failure to submit a POC or revised POC, within 21 or 14 days, respectively, of the date on the letter that transmits the inspection report, in violation of He-P 805.12(c)(2) and (5), the fine for a licensee shall be \$100.00;
- (12) For a failure to implement any POC that has been accepted or issued by the department, in violation of He-P 805.12(c)(8), the fine for a licensee shall be \$1000.00;
- (13) For a failure to establish, implement or comply with licensee policies, as required by He-P 805.16(i) and He-P 805.19(d), the fine for a licensee shall be \$500.00;
- (14) For a failure to provide services or programs required by the licensing classification and specified by He-P 805.14(b), the fine for a licensee shall be \$500.00;
- (15) For exceeding capacity, in violation of He-P 805.14(l), the fine for a licensee shall be \$500.00;
- (16) For falsification of information contained on an application or of any records required to be maintained for licensing, in violation of He-P 805.14(r), the fine for an applicant or licensee shall be a minimum of \$500.00 per offense;
- (17) For a failure to meet the needs of the resident, in violation of He-P 805.15(a), the fine for a licensee shall be \$500.00;
- (18) For employing an administrator or other personnel who do not meet the qualifications for the position, in violation of He-P 805.18(g)-(h), under circumstances where the department has not granted a waiver in accordance with He-P 805.10, the fine for a licensee shall be \$500.00;
- (19) For failure to submit architectural plans or drawings, when applicable, prior to undertaking construction or renovation of the licensed facility in violation of He-P 805.07(a), the fine for a licensed facility shall be \$500.00;
- (20) When an inspection determines that a violation of RSA 151 or He-P 805 has the potential to jeopardize the health, safety or well-being of a resident, in addition to any other enforcement actions taken by the department, the fines assessed shall be as follows:
- a. If the same deficiency is cited within 5 years of the original deficiency the fine for a licensee shall be \$1000.00; or
  - b. If the same deficiency is cited a third time within 5 years of being fined in a. above the fine for a licensee shall be \$2000.00;
- (21) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 805 shall constitute a separate violation warranting additional fines in accordance with He-P 805.12; and
- (22) If the applicant or licensee is making good faith efforts to comply with (4), (6) and (14) above, the department shall not issue a daily fine.
- (g) Payment of any imposed fine to the department shall meet the following requirements:
- (1) Payment shall be made in the form of check or money order made payable to the "Treasurer, State of New Hampshire" or cash in the exact amount due; and
  - (2) Cash, money order, or certified check shall be required when an applicant or licensee has issued payment to the department by check, and such check was returned for insufficient funds.

(h) The department shall impose state monitoring under the following conditions:

- (1) Repeated poor compliance on the part of the facility in areas that may impact the health, safety or well-being of residents; or
- (2) Concern that the conditions in the SRHCF have the potential to worsen.

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.13 Enforcement Actions and Hearings.

(a) Prior to taking enforcement action against an applicant or licensee, the department shall send to the applicant or licensee a written notice that sets forth:

- (1) The reasons for the proposed action;
- (2) The action to be taken by the department; and
- (3) The right of an applicant or licensee to a hearing in accordance with RSA 151:8 or RSA 541-A:30, III, as applicable, before the enforcement action becomes final.

(b) The department shall deny an application or revoke a license if:

- (1) An applicant or a licensee violated a provision of RSA 151 or He-P 805 which poses a risk of harm to a resident's health, safety or well-being;
- (2) An applicant or licensee has failed to pay an administrative fine imposed by the department;
- (3) An applicant or licensee had a check returned to the department for insufficient funds and has not re-submitted the outstanding fee in the form of cash, money order or certified check;
- (4) After being notified of and given an opportunity to supply missing information, the applicant or licensee fails to submit an application that meets the requirements of He-P 805.04;
- (5) The applicant, licensee or any representative or employee of the applicant or licensee:
  - a. Provides false or misleading information to the department;
  - b. Prevents, interferes or fails to cooperate with any inspection or inspection conducted by the department; or
  - c. Fails to provide requested files or documents to the department;
- (6) The licensee failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 805.12(c),(d) and (e);
- (7) The licensee is cited a third time under RSA 151 or He-P 805 for the same violation within the last 5 inspections;

(8) A licensee, or its corporate officers, has had a license revoked and submits an application during the 5-year prohibition period specified in (i) below;

(9) Upon inspection, the applicant's premises are not in compliance with RSA 151 or He-P 805;

(10) The department makes a determination that one or more factors in He-P 805.05(e) is true; or

(11) The applicant or licensee employs an administrator who does not meet the qualifications for the position under circumstances in which the department has not granted a waiver.

(c) An applicant or licensee shall have 30 days after receipt of the notice of enforcement action to request a hearing to contest the action.

(d) If a written request for a hearing is not made pursuant to (c) above, the action of the department shall become final.

(e) The department shall order the immediate suspension of a license, the cessation of operations, and the transfer of residents when it finds that the health, safety or well-being of a resident is in jeopardy and requires emergency action in accordance with RSA 541-A:30, III.

(f) If an immediate suspension is upheld the licensee shall not resume operating until the department determines through inspection that compliance with RSA 151 and He-P 805 is achieved.

(g) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.

(h) When a SRHCF's license has been denied or revoked, the applicant, licensee or administrator shall not be eligible to reapply for a license or be employed as an administrator for 5 years if the denial or revocation pertained to their role in the SRHCF.

(i) The 5 year period referenced in (h) above shall begin on:

(1) The date of the department's decision to revoke or deny the license, if no appeal is filed; or

(2) The date a final decision upholding the action of the department is issued, if a request for a hearing is made and a hearing is held.

(j) Notwithstanding (h) above, the department shall consider an application submitted after the decision to revoke or deny becomes final, if the applicant demonstrates that circumstances have changed to the extent that the department now has good cause to believe that the applicant has the requisite degree of knowledge, skills and resources necessary to maintain compliance with the provisions of RSA 151 and He-P 805.

(k) RSA 541-A and He-C 200 shall govern further appeals of department decisions under this section.

(l) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A:30, III, or He-P 805.

(m) The department shall offer an opportunity for informal dispute resolution to any applicant or licensee who disagrees with a deficiency cited by the department on a statement of findings, provided that the applicant or licensee submits a written request for an informal dispute resolution.

(n) The informal dispute resolution shall be requested in writing by the applicant, licensee or program director no later than 14 days from the date the statement of findings was issued by the department.

(o) The department shall review the evidence presented and provide a written notice to the applicant or licensee of its decision.

(p) An informal dispute resolution shall not be available for any applicant or licensee against whom the department has initiated action to suspend, revoke, deny or refuse to issue or renew a license.

Source. #2261, eff 1-17-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5513, eff 11-25-92; ss by #5665, eff 7-14-93; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.14 Duties and Responsibilities of the Licensee.

(a) The licensee shall comply with all relevant federal, state and local laws, rules, codes and ordinances as applicable.

(b) The licensee shall provide the following core services:

- (1) The presence of staff whenever a resident is in the facility;
- (2) Health and safety services to all residents to minimize the likelihood of accident or injury, with protective care and oversight provided 24 hours a day regarding:
  - a. The residents' functioning, safety and whereabouts; and
  - b. The residents' health status, including the provision of intervention as necessary or required;
- (3) Emergency response and crisis intervention;
- (4) Assistance with taking and ordering medications as determined by a resident's ability or inability to safely manage medications as determined by the Resident Assessment Tool (RAT);
- (5) The provision of 3 nutritious meals and snacks unless the resident chooses other options according to their residential service agreement;
- (6) Housekeeping, laundry and maintenance services in accordance with the residential service agreement;
- (7) The availability of on-site activities, for which the facility shall make reasonable accommodation for residents with disabilities, to include, but not be limited to television, radio, internet, games, newspapers, visitors and music, designed to sustain and promote physical, intellectual, social and spiritual well-being of all residents in accordance with the residential service agreement;
- (8) Assistance in arranging medical and dental appointments, including assistance in arranging transportation to and from such appointments and reminding the residents of the appointments; and
- (9) Personal supervision of residents when necessary to offset cognitive deficits that might pose a risk to the safety of self or others if the resident is not supervised.

(c) The licensee shall provide access, as necessary, to the following services pursuant to RSA 151:2, IV and RSA 151:9, VII(a)(2):

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- (1) Nursing services, in accordance with RSA 326-B, including supervision and instruction of direct care personnel, relative to the delivery of nursing care;
  - (2) Rehabilitation services, including documentation of the licensed practitioner's order for the service, such as physical therapy, occupational therapy, and speech therapy; and
  - (3) Behavioral health care services.
- (d) The licensee shall assist with arranging transportation to community programs, such as religious services and cultural, social, educational and recreational activities according to the availability of such services in the surrounding communities.
- (e) The licensee shall:
- (1) Provide basic supplies necessary for residents to maintain grooming and personal hygiene, such as soap, shampoo, toothpaste, toothbrush and toilet paper;
  - (2) Not be responsible for the cost of purchasing a specific brand of product at a resident's request;
  - (3) Ensure that sufficient numbers of qualified personnel are present in the SRHCF to meet the needs of residents at all times;
  - (4) Ensure that demonstrated competencies required by the "qualified personnel" referenced in (3) above are documented in the employee personnel file; and
  - (5) Require any paid provider of direct care, other than an employee, providing health care related services to provide a brief written, signed, and dated note describing the reason for the service(s), and the next planned visit, if known.
- (f) The use of chemical or physical restraints as defined under He-P 805.03(m) and (ax), respectively, shall only be permitted as allowed by RSA 151:21.
- (g) After the use of a physical or chemical restraint, the facility shall make the following notifications:
- (1) To the resident's guardian or agent, if any, as soon as is practicable and in no case longer than 24 hours; and
  - (2) To the health facilities licensing unit within 48 hours by fax, at (603) 271-5574, or by electronic means.
- (h) The use of mechanical restraints, limited to locked, secured and/or alarmed SRHCFs or units within an SRHCF, or anklets, bracelets or similar devices that cause a door to automatically lock when approached, thereby preventing a resident from freely exiting the SRHCF or unit within as permitted by the fire code, shall be allowed.
- (i) The following methods of mechanical restraints shall be prohibited:
- (1) Full bed rails;
  - (2) Gates, if they prohibit a resident's free movement throughout the living areas of the SRHCF;
  - (3) Half doors, if they prohibit a resident's free movement throughout the living areas of the SRHCF;



- (4) Geri chairs, when used in a manner that prevents or restricts a resident from getting out of the chair at will;
  - (5) Wrist or ankle restraints;
  - (6) Vests or pelvic restraints; or
  - (7) Other similar devices that prevent a resident's free movement.
- (j) For reportable incidents, the licensees shall have responsibility for:
- (1) Faxing to 271-5574 or, if a fax machine is not available, conveying by electronic or regular mail, the following information to the department within 48 hours of a reportable incident as defined in He-P 805.03(bf):
    - a. The SRHCF name;
    - b. A description of the incident, including identification of injuries, if applicable;
    - c. The name of the licensee(s) or personnel involved in, witnessing, or responding to the unusual incident;
    - d. The name of resident(s) involved in the reportable incident;
    - e. The date and time of the reportable incident;
    - f. The action taken in direct response to the reportable incident;
    - g. If medical intervention was required, by whom and the date and time;
    - h. When the resident's guardian or agent, if any, or personal representative, or emergency contact person was notified;
    - i. The signature of the person reporting the reportable incident; and
    - j. The date and time the residents licensed practitioner was notified, if applicable;
  - (2) As soon as practicable, notifying the local police department, the department and the guardian, agent, or personal representative, if any, when a resident has an elopement or unexplained absence and the licensee has searched the building and the grounds of the SRHCF without finding the resident; and
  - (3) Notifying the department with a written report within 5 days describing the actions taken by personnel, the final outcome or continuation of the reportable incident and actions taken to prevent a reoccurrence if it was not submitted in the initial report.
- (k) The licensee shall comply with the patient's bill of rights as set forth in RSA 151.
- (l) The licensee shall not exceed the maximum number of residents or beds licensed by the department, unless authorized by the department, such as during an emergency.
- (m) The licensee shall give a resident a written notice as follows:
- (1) Thirty days advance notice for an increase in the cost or fees for SRHCF services unless the increase of cost or fees is due to a change in the resident's condition and service needs; or

(2) Fourteen days advance notice for an involuntary change in room or bed location, unless the change is required to protect the health, safety and well-being of the resident or other residents, in such case the notice shall be as soon as practicable.

(n) In addition to the posting requirements specified in RSA 151:29, the licensee shall post the following documents in a public and conspicuous area:

(1) The current license certificate issued in accordance with RSA 151:2;

(2) The most recent inspection report as specified in RSA 151:6-a;

(3) A copy of the patient's bill of rights specified by RSA 151:21;

(4) A copy of the licensee's complaint procedure, including a statement that complaints may be submitted, in writing, to The Department of Health and Human Services, Health Facilities Administration, 129 Pleasant Street, Concord, N.H. 03301 or by calling 1-800-852-3345, and information on how to contact the office of the long-term care ombudsman; and

(5) The licensee's evacuation floor plan identifying the location of, and access to all fire exits.

(o) The licensee shall determine the smoking status of the SRHCF.

(p) If smoking is to be allowed, the licensee shall develop and implement smoking policies and designate smoking areas in accordance with RSA 155:66, RSA 155:68 and RSA 155:69 and He-P 805.25(f).

(q) The licensee may hold or manage a resident's funds or possessions only when the facility receives written authorization in accordance with RSA 151:24 and RSA 151:21, VII, and such funds shall not be used for the benefit of the licensee, other residents or other household members.

(r) The licensee shall not falsify any documentation required by law or provide false or misleading information to the department.

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.15 Resident Admission Criteria, Temporary Absence, Transfer, and Discharge Criteria.

(a) The licensee shall only admit an individual or retain a resident whose needs are compatible with the facility and the services and programs offered, and whose needs can be met by the SRHCF.

(b) If the SRHCF admits or retains an individual who:

(1) Requires lift equipment for transfers, all direct care personnel shall document in their personnel file that they have been trained in the correct operation of such equipment;

(2) Has a stage 2, 3, or 4 pressure sore, the licensee shall obtain the services of a nurse or other licensed health care professional, who may be a consultant, who has obtained the skills, training and experience for the prevention of pressure sores in accordance with standards set forth by the National Pressure Ulcer Advisory Panel;

(3) Requires continuing nursing care or monitoring including but not limited to residents who are convalescing from an illness or injury and require short-term medical care, the SRHCF shall employ or contract for nursing personnel 24 hours per day; or

(4) Requires hospice care and the resident is no longer capable of taking medications supervised by unlicensed staff or unable to self direct the taking of medications, the licensee shall have a nurse available to meet the needs of the resident but with delays no longer than 30 minutes,

during all shifts, to administer medications or shall administer medications by nurse delegation in accordance with Nur 404.

(c) A licensee shall not deny admission to any person because that person does not have a guardian or an advanced directive, such as a living will or durable power of attorney for health care established in accordance with RSA 137-H or RSA 137-J.

(d) During a temporary absence the SRHCF shall hold the resident's bed open in accordance with RSA 151:25.

(e) The resident shall be transferred or discharged, in accordance with RSA 151:5-a, RSA 151:19, RSA 151:21 V, and RSA 151:26.

(f) The licensee shall develop a discharge plan with the input of the resident and the guardian or agent, if any.

(g) The following documents shall accompany the resident upon transfer or discharge:

- (1) The most recent resident assessment tool, care plan and quarterly progress notes if the resident is being transferred to another residential care facility or another SRHCF;
- (2) The most recent nursing assessment, if applicable;
- (3) A copy of the most recent medication administration/assistance record; and
- (4) A licensed practitioner's order for transfer, if applicable.

(h) If the transfer or discharge referenced in (e) above is required by the reasons listed in RSA 151:26, II(b), a written notice shall be given to the resident as soon as possible.

(i) If the transfer or discharge referenced in (e) above is required for life safety reasons, the facility shall make a review of the residents needs and options for meeting these needs prior to discharge.

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.16 Required Services.

(a) The licensee shall provide administrative services that include the appointment of a full-time, on-site administrator who:

- (1) Is responsible for the day-to-day operations of the SRHCF;
- (2) Works no less than 35 hours per week at the SRHCF, which may include day, evening, night and weekend hours;
- (3) Meets the requirements of He-P 805.18(g) and (h); and
- (4) Designates, in writing, an alternate administrator who shall assume the responsibilities of the administrator in his or her absence.

(b) At the time of application for admission, the licensee shall provide the resident and legal agent, if any or personal representative, a written copy of the residential service agreement pursuant to RSA 161-J, except that a copy of the residential service agreement shall not be required if the facility admission contract includes all of the provisions of a residential service agreement.

(c) In addition to (b) above, at the time of admission, the licensee shall provide a written copy to the resident and legal agent, if any, or personal representative, and receive written verification of receipt for the following:

(1) An admissions contract including the following information:

- a. The basic daily, weekly and monthly fee;
- b. A list of the core services required by He-P 805.14(b) that are covered by the basic fee;
- c. Information regarding the timing and frequency of cost of care increases;
- d. The time period covered by the admissions contract;
- e. The SRHCF's house rules;
- f. The reasons a resident may be transferred or discharged in accordance with RSA 151:5-a, II, or RSA 151:21, V;
- g. The SRHCF's responsibility for resident discharge planning;
- h. Information regarding nursing, other health care services or supplies not provided in the core services, to include:
  1. The availability of services;
  2. The SRHCF's responsibility for arranging services; and
  3. The fee and payment for services, if known;
- i. The licensee's policy regarding:
  1. Arranging for the provision of transportation;
  2. Arranging for the provision of third party services, such as a hairdresser or cable television;
  3. Acting as a billing agent for third party services;
  4. Monitoring third party services contracted directly by the resident and provided on the SRHCF premises;
  5. Handling of resident funds pursuant to RSA 151:24 and He-P 805.14(q);
  6. Bed hold, in compliance with RSA 151:25;
  7. Storage and loss of the resident's personal property; and
  8. Smoking;
- j. If the facility is not constructed to meet the health care occupancy chapter of NFPA 101, the admission agreement shall note that the resident may need to be discharged or transferred when the facility can no longer meet the resident's evacuation needs as required by the approved fire safety and emergency plan approved by the local fire department;
- k. The licensee's medication management services and associated costs; and

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1. The list of grooming and personal hygiene supplies provided by the SRHCF as part of the basic daily, weekly or monthly rate;
  - (2) A copy of the most current version of the patients' bill of rights under RSA 151:21 and the SRHCF's policy and procedure for implementing the bill of rights pursuant to RSA 151:20, II;
  - (3) A copy of the resident's right to appeal an involuntary transfer or discharge under RSA 151:26, II(5);
  - (4) The SRHCF's policy and procedure for handling reports of abuse, neglect or exploitation which shall be in accordance with RSA 161-F:46 and RSA 169-C:29;
  - (5) Information on accessing the long-term care ombudsman;
  - (6) Information on advanced directives;
  - (7) Whether or not personnel are trained in cardiopulmonary resuscitation (CPR), first aid or both; and
  - (8) Whether or not the facility has an AED onsite and available for use in an emergency.
- (d) The SRHCF shall assess each resident's needs using the most recent version of the department's approved RAT.
- (e) All personnel who administer the RAT shall be trained to complete the RAT by the department or entities listed in RSA 151:5-c, III.
- (f) The assessment described in (d) above shall:
- (1) Be completed no more than 30 days prior to admission to the SRHCF;
  - (2) Be completed in consultation with the resident and guardian or agent, if any; and
  - (3) Be repeated every 6 months or after any significant change as defined in He-P 805.03(br).
- (g) The facility shall have documented evidence that the resident and guardian or agent, if any, has had an opportunity to review the RAT.
- (h) If the RAT identifies the need for a nursing assessment, the nursing assessment shall be completed within 72 hours of the completion of the RAT.
- (i) If the RAT identifies a need for a care plan, the care plan shall be:
- (1) Completed within 24 hours of the resident's admission for the initial RAT and within 24 hours of the completion of all subsequent RATs;
  - (2) Made available to personnel who assist residents;
  - (3) Be completed in consultation with the resident and guardian or agent, if any; and
  - (4) If the resident and guardian or agent are unable or unwilling to participate as required by (3) above, it shall be documented in the resident record.
- (j) The care plan identified in (i) above shall include on an ongoing basis:
- (1) The date the problem or need was identified;

- (2) A description of the problem or need;
  - (3) The goal or objective of the plan;
  - (4) The action or approach to be taken;
  - (5) The responsible person(s) or position; and
  - (6) The date of reevaluation, review, or resolution.
- (k) All care plans shall be reviewed at least every 6 months to determine if:
- (1) The care plan will be continued for another 6 months;
  - (2) The care plan will be revised to meet the needs of the resident; and/or
  - (3) The care plan will be discontinued because the plan is no longer needed.
- (l) Progress notes shall be written at least every 90 days and include, at a minimum:
- (1) Care plan outcomes if a care plan was developed as identified by the RAT;
  - (2) The resident's physical, functional and mental abilities; and
  - (3) Changes in behavior, such as eating habits, sleeping pattern, and relationships.
- (m) At the time of a resident's admission, the licensee shall obtain written and signed orders from a licensed practitioner for medications, treatment, and special diet.
- (n) The licensee shall have each resident obtain a health assessment by a licensed practitioner within one year prior to admission or within 72 hours following admission to the SRHCF.
- (o) The health assessment referenced in (n) above shall include:
- (1) Diagnoses, if any;
  - (2) The medical history;
  - (3) A list of current medications including over-the-counter medications, treatments and special diets, if applicable; and
  - (4) Allergies.
- (p) Each resident shall have at least one health assessment every 12 months, unless the primary care licensed practitioner determines annually that a health assessment is not necessary and specifies in writing an alternative time frame, or the resident annually refuses in writing.
- (q) A resident may refuse all care and services.
- (r) When a resident refuses care or services that could result in a threat to their health, safety or well-being, or that of others, the licensee or their designee shall:
- (1) Inform the resident of the potential results of their refusal;
  - (2) Notify the licensed practitioner and guardian, if any, of the resident's refusal of care; and
  - (3) Document in the resident's record the refusal of care and the resident's reason for the refusal.

(s) The licensee shall maintain an information data sheet in the resident's record and promptly give a copy to emergency medical personnel in the event of an emergency transfer to another medical facility.

(t) The information data sheet referenced in (s) above shall include:

- (1) Full name and the name the resident prefers, if different;
- (2) Name, address and telephone number of the resident's next of kin, guardian or agent, if any;
- (3) Diagnosis;
- (4) Medications, including last dose taken and when the next dose is due;
- (5) Allergies;
- (6) Functional limitations;
- (7) Date of birth;
- (8) Insurance information;
- (9) Advanced directives; and
- (10) Any other pertinent information not specified in (1)-(9) above.

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.17 Medication Services.

(a) All medications shall be administered in accordance with the written and signed orders of the licensed practitioner or other professional with prescriptive powers.

(b) All medications and treatments shall be reviewed, re-ordered, and signed by a practitioner on an annual basis.

(c) All personnel shall follow the written and signed orders of the licensed practitioner for each resident.

(d) Medications, treatments, and diets ordered by the licensed practitioner or other professional with prescriptive powers shall be available to give to the resident within 24 hours or when available as in accordance with the licensed practitioner's written direction.

(e) The licensee shall have a written policy and system in place instructing how to:

- (1) Obtain any medication ordered for immediate use at the SRHCF;
- (2) Reorder medications for use at the SRHCF; and
- (3) Receive and record new medication orders.

(f) Each medication order shall legibly display the following information:

- (1) The resident's name;
- (2) The medication name, strength, prescribed dose and route, if different then by mouth;
- (3) The frequency of administration;

- (4) The indications for usage for all medications that are used PRN; and
- (5) The dated signature of the ordering practitioner.

(g) For PRN medications the ordering practitioner shall indicate, in writing, the indications for use and any special precautions or limitations to use of the medication, including the maximum allowed dose in a 24-hour period.

(h) Each prescription medication shall legibly display the following information unless it is an emergency medication as allowed by (ap) below:

- (1) The resident's name;
- (2) The medication name, strength, the prescribed dose and route of administration;
- (3) The frequency of administration;
- (4) The indications for usage of all pro re nata (PRN) medications;
- (5) The date ordered;
- (6) The name of the prescribing practitioner; and
- (7) The expiration date of the medication(s).

(i) Pharmaceutical samples shall be used in accordance with the licensed practitioners written order and labeled by the licensed practitioner, the administrator, licensee or their designee with the resident's name and are exempt from (h)(2)-(6) above.

(j) The dosage, frequency and route on the labels of all prescription medications for each resident shall be identical to the dosage, frequency and route on the facility medication record except as allowed by (k) below.

(k) The change in the dose of a medication, or the discontinuation of a medication, shall be authorized in writing by a licensed practitioner and the medication record for a change or discontinuance shall indicate in writing the date the dose or the discontinuance occurred.

(l) Only a pharmacist shall make changes to prescription medication container labels except as allowed by (m) below.

(m) When the licensed practitioner or other professional with prescriptive powers changes the dose and personnel are unable to obtain a new prescription label, the original container shall be clearly marked without obstructing the pharmacy label to indicate a change in the medication order.

(n) Only a licensed nurse shall accept telephone orders for medications, treatments, and diets, and the licensed nurse shall immediately transcribe and sign the order.

(o) The transcribed order referenced in (n) above shall be counter-signed by the authorized prescriber within 30 days of receipt.

(p) No medications shall be given to or taken by a resident until a written order is received, except as allowed by (o) above.



(q) All over-the-counter medications as defined by He-P 805.03(as) shall have a signed practitioner's order specifying that the resident may take the medication according to the instructions of the manufacturer, or specifying the dosage, frequency and route.

(r) The medication storage area for medications not stored in the resident's room shall be:

- (1) Locked and accessible only to authorized personnel;
- (2) Clean and organized with adequate lighting to ensure correct identification of each resident's medication(s); and
- (3) Equipped to maintain medication at the proper temperature.

(s) All medications, including over the counter medications, shall remain in the original containers except as authorized by (ae)(5) and (af)(4)c. below.

(t) Topical liquids, ointments, patches, creams, or powder forms of products shall be stored in such a manner that cross contamination with oral, optic, ophthalmic and parenteral products shall not occur.

(u) If controlled substances, as defined by RSA 318-B, are stored in a central storage area in the ALR-SRHC, they shall be kept in a separately locked compartment within the locked medication storage area accessible only to authorized personnel.

(v) The licensee shall develop and implement written policies and procedures regarding a system for maintaining counts of controlled drugs.

(w) Except as required by (y) below, any contaminated, expired or discontinued medication shall be destroyed within 30 days of the expiration date, the end date of a licensed practitioner's orders or the medication becomes contaminated, whichever occurs first.

(x) Controlled drugs shall be destroyed only in accordance with state law.

(y) Destruction of controlled drugs under (x) above shall:

- (1) Be accomplished in the presence of at least 2 people who must sign, date and record the amount destroyed; and
- (2) Be documented in the record of the resident for whom the drug was prescribed.

(z) When a resident is going to be absent from the SRHCF at the time medication is scheduled to be taken, the medication container shall be given to the resident if the resident is capable of self-administering without assistance, as described in (ae) below.

(aa) If a resident is going to be absent from the SRHCF at the time medication is scheduled to be taken and the resident is not capable of self-administering, the medication container shall be given to the person responsible for the resident while the resident is away from the SRHCF.

(ab) Upon discharge or transfer, the licensee shall make the resident's current medications available to the resident and the guardian or agent, if any, and upon death of a resident, the facility shall return or destroy all remaining medications, as appropriate.

(ac) A written order from a licensed practitioner shall be required annually for any resident who is authorized to carry emergency medications, including but not limited to nitroglycerine and inhalers.

(ad) Residents shall receive their medications by one of the following methods:

- (1) Self-administered without assistance as allowed by (ae) below;
- (2) Self-directed administration of medication as allowed by (af) below;
- (3) Self-administered with assistance as allowed by (ag) and (ah) below; or
- (4) Administered by individuals authorized by law.

(ae) For residents who self-administer without assistance as defined in 805.03(bn) the licensee shall:

- (1) Obtain a written order from a licensed practitioner on an annual basis:
  - a. Authorizing the resident to self-administer medications without assistance; and
  - b. Authorizing the resident to store the medications in their room;
- (2) Evaluate the resident initially and then on a 6month basis or sooner if the resident experiences a significant change, to ensure they maintain the physical and mental ability to self-administer without assistance;
- (3) Have the resident store the medication(s) in his or her room by keeping them in a locked drawer or container to safeguard against unauthorized access and making sure that this arrangement will maintain the medications at proper temperatures;
- (4) Have a copy of the key to access the locked medication storage area in the resident's room; and
- (5) Allow only the resident to fill and utilize a medication system that does not require that medication remain in the container as dispensed by the pharmacist.

(af) The licensee shall allow the resident to self-direct administration of medications as defined in He-P 805.03(bj) if the resident:

- (1) Has a physical limitation due to a diagnosis that prevents them from self-administration;
- (2) Receives evaluations every 6 months or sooner, based on a significant change in the resident, to ensure the resident maintains the physical and mental ability to self-direct administration of medications;
- (3) Obtains an annual written verification of their physical limitation and self-directing capabilities from their licensed practitioner and requests the SRHCF to file the verification in their resident record; and
- (4) Verbally directs personnel to:
  - a. Assist them with preparing the correct dose of medication by pouring, applying, crushing, mixing or cutting;
  - b. Assist the resident to apply, ingest or instill the ordered dose of medication; and
  - c. Fill and utilize a medication system that does not require that medication remain in the container as dispensed by the pharmacist.

(ag) If a resident self-administers medication with assistance, as defined in He-P 805.03(bm), personnel shall only:

- (1) Remind the resident to take the correct dose of his or her medication at the correct time;
  - (2) Place the medication container within reach of the resident and open the container, if requested by the resident;
  - (3) Remain with the resident to observe the resident taking the appropriate amount and type of medication as ordered by the licensed practitioner;
  - (4) Record on the resident's daily medication record that they have observed the resident taking his or her medication;
  - (5) Document in the resident's record any observed or reported side effects, adverse reactions, and refusal to take medications and or medications not taken; and
  - (6) Not touch the medications or remove them from the container.
- (ah) Personnel shall remain with the resident until the resident has taken the medication.
- (ai) If a nurse delegates the task of medication administration to an individual not licensed to administer medications, the nurse shall only do so as allowed by RSA 326-B and Nur 404.
- (aj) Except for those residents who self-administer medication without assistance, the licensee shall maintain a daily medication record for each medication taken by the resident at the SRHCF that contains the following information:
- (1) Any allergies or allergic reactions to medications;
  - (2) The medication name, strength, dose, frequency and route of administration;
  - (3) The date and the time the medication was taken;
  - (4) The signature, identifiable initials and job title of the person who administers, supervises or assists the resident taking medication;
  - (5) For PRN medications, the reason the resident required the medication and the effect of the PRN medication; and
  - (6) Documented reason for any medication refusal or omission.
- (ak) Personnel who are not otherwise licensed practitioners, nurses, or medication nursing assistants and who assist a resident with self administration with assistance, self directed administration or administration of medication via nurse delegation shall complete, at a minimum, a 4-hour medication assistance education program covering both prescription and non-prescription medication.
- (al) A licensed nurse, licensed practitioner or pharmacist shall teach the medication assistance education program, whether in-person or through other means such as electronic media provided it meets the requirements of the (ak) above.
- (am) The medication assistance education program required by (ak) above shall include:
- (1) Infection control and proper hand washing techniques;
  - (2) The 5 rights which are:
    - a. The right resident;

- b. The right medication;
- c. The right dose;
- d. Administered at the right time; and
- e. Administered via the right route;

(3) Documentation requirements;

(4) General categories of medications such as antihypertensives or antibiotics;

(5) Desired effects and potential side effects of medications; and

(6) Medication precautions and interactions.

(an) The administrator may accept documentation of training required by (ak) above if it was previously obtained by the applicant for employment at another licensed SRHCF.

(ao) An SRHCF shall use emergency drug kits only in accordance with board of pharmacy rule Ph 705.03 under circumstances where the SRHCF:

(1) Has a director of nursing who is an RN licensed in accordance with RSA 326-B; and

(2) Has a contractual agreement with a medical director who is licensed in accordance with RSA 329 and a consultant pharmacist who is licensed in accordance with RSA 318.

(ap) The licensee shall document in the resident record and report any observed adverse reactions to medication and side effects, or medication errors such as incorrect medications, to the licensed practitioner, and to the agent or guardian if applicable, immediately upon the adverse reaction or medication error.

(aq) The written documentation of the report in (aq) above shall be maintained in the resident's record.

(ar) No medication, whether prescription medication or over-the-counter medication, shall be borrowed from another resident.

(as) Stock medication shall not be used in the SRHCF.

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.18 Personnel.

(a) For all applicants for employment, except those licensed by the New Hampshire board of nursing, and for all household members 17 years of age or older, the licensee shall:

- (1) Obtain and review a criminal records check from the New Hampshire department of safety;
- (2) Review the results of the criminal records check in accordance with (b) below; and
- (3) Verify the qualifications of all applicants prior to employment.

(b) Unless a waiver is granted in accordance with (c) below, the licensee shall not offer employment for any position or allow a household member to continue to reside in the residence if the individual:

- (1) Has been convicted of a felony in this or any other state;

(2) Has been convicted of a sexual assault, other violent crime, assault, fraud, abuse, theft, neglect or exploitation;

(3) Has been found by the department or any administrative agency in this or any other state to have committed assault, fraud, abuse, neglect or exploitation of any person; or

(4) Otherwise poses a threat to the health, safety or well-being of the residents.

(c) The department shall grant a waiver of (b) above if, after reviewing the underlying circumstances, it determines that the person does not pose a threat to the health, safety or well-being of residents.

(d) No employee shall be permitted to maintain their employment, and no household member shall be permitted to remain residing in the facility, if he or she has been convicted of a felony, sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation of any person in this or any other state by a court of law or has had a complaint investigation for abuse, neglect, or exploitation adjudicated and founded by the department unless a waiver has been granted by the department.

(e) The licensee shall check, prior to hiring, the names of all prospective employees against the bureau of elderly and adult services (BEAS) state registry maintained pursuant to RSA 161-F:49 and He-W 720, and the NH board of nursing, nursing assistant registry maintained pursuant RSA 326-B:26 and 42C.F.R. section 483.156.

(f) The licensee shall not make a final offer of employment to any prospective employee listed on the BEAS state registry or the NH board of nursing, nursing assistant registry unless a waiver is granted by the bureau of elderly and adult services or the NH board of nursing, respectively.

(g) For an SRHCF licensed for 17 or more beds, all administrators shall be at least 21 years of age and have one of the following combinations of education and experience:

(1) A bachelor's degree from an accredited institution and 2 years of relevant experience working in a health care setting;

(2) A New Hampshire license as an RN, with at least 2 years of relevant experience working in a health care setting;

(3) An associate's degree from an accredited institution plus 4 years of relevant experience working in a health care setting; or

(4) A New Hampshire license as an LPN, with at least 4 years of relevant experience working in a health care setting.

(h) For an SRHCF licensed for 16 or fewer beds, all administrators shall be at least 21 years of age and have one of the following combinations of education and experience:

(1) A bachelor's degree from an accredited institution and one year of relevant experience working in a health care setting;

(2) A New Hampshire license as an RN, with at least one year of relevant experience working in a health care setting;

(3) An associate's degree from an accredited institution plus 2 years of relevant experience working in a health care setting;

(4) New Hampshire license as an LPN, with at least 2 years of relevant experience working in a health care setting; or

- (5) Be a high school graduate or have a GED with 6 years of relevant experience working in a health care setting with at least 2 of those years as direct care personnel in a long-term care setting within the last 5 years.
- (i) All administrators shall obtain and document in accordance with (q)(7) and (8) below, 12 hours of continuing education related to the operation and services of the SRHCF each annual licensing period.
- (j) All personnel shall be at least 18 years of age if working as direct care personnel unless they are:
  - (1) A licensed nursing assistant working under the supervision of a nurse in accordance with Nur 700; or
  - (2) Involved in an established educational program working under the supervision of a nurse.
- (k) The licensee shall inform personnel of the line of authority at the SRHCF.
- (l) The licensee shall educate personnel about the needs and services required by the residents under their care.
- (m) Prior to having direct care contact with residents, personnel, including volunteers and independent contractors shall:
  - (1) Submit to the licensee the results of a 2-step tuberculosis (TB) test, Mantoux method, or other method approved by the Centers for Disease Control, conducted not more than 12 months prior to employment and for personnel other than volunteers and independent contractors, submit the results of a physical examination or a health screening;
  - (2) Be allowed to work while waiting for the results of the second step of the TB test when the results of the first step are negative for TB;
  - (3) Comply with the requirements of the Centers for Disease Control and Prevention “Guidelines for Preventing the Transmission of *M. tuberculosis* in Health-Care Settings” (2005 edition), available as noted in Appendix A, if the person has either a positive TB test, or has had direct contact or potential for occupational exposure to *M. tuberculosis* through shared air space with persons with infectious tuberculosis; and
  - (4) In lieu of (1) above, independent contractors hired by the facility may provide the facility with a signed statement that they have complied with (1) and (3) above for their employees working at the SRHCF.
- (n) Within the first 7 days of employment, all personnel who have direct or indirect contact with residents, to include volunteers who have direct care contact or who prepare and serve food shall receive a tour of the SRHCF and an orientation that includes the following:
  - (1) The residents’ rights in accordance with RSA 151:21;
  - (2) The SRHCF’s complaint procedures;
  - (3) The duties and responsibilities of the position;
  - (4) The medical emergency procedures;
  - (5) The emergency and evacuation procedures;
  - (6) The infection control procedures as required by He-P 805.22;

- (7) The procedures for food safety for personnel involved in preparation, serving and storing of food; and
  - (8) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.
- (o) The licensee shall provide all personnel with an annual continuing education or in-service education training, which at a minimum contains the following:
- (1) The licensee's resident's rights and complaint procedures required under RSA 151;
  - (2) The licensee's infection control program;
  - (3) The licensee's written emergency plan; and
  - (4) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.
- (p) The licensee shall provide an annual review of its policies and procedures for self-administration of medication without assistance, self-administration of medication with assistance and self-directed medication administration to all direct care personnel.
- (q) The personnel file for each individual shall include the following:
- (1) A completed application for employment or a resume;
  - (2) Proof that the individual meets the minimum age requirements;
  - (3) A statement signed by each individual that he or she has received a copy of and received training on the implementation of the licensee's policy setting forth the residents rights and responsibilities as required by RSA 151:21;
  - (4) A copy of the results of the criminal record check as described in (a) above;
  - (5) A job description signed by the individual that identifies the:
    - a. Position title;
    - b. Qualifications and experience; and
    - c. Duties required by the position;
  - (6) Record of satisfactory completion of the orientation program required by (n) above;
  - (7) Information as to the general content and length of all in-service or educational programs attended;
  - (8) Record of satisfactory completion of all required education programs and demonstrated competencies that is signed and dated by the employee;
  - (9) Documentation that the required physical examinations, health screenings, TB test results, and radiology reports of chest x-rays, if required, have been completed by the appropriate health professionals; and
  - (10) The statement required by (r) below.
- (r) All personnel shall sign a statement at the time the initial offer of employment is made and then annually thereafter stating that they:

- (1) Do not have a felony conviction in this or any other state;
  - (2) Have not been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation or pose a threat to the health, safety or well-being of a resident; or
  - (3) Have not had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation of any person.
- (s) The licensee shall maintain separate personnel records that:
- (1) Contain the information required by (q) above; and
  - (2) Are protected and stored in a secure and confidential manner.

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.19 Resident Records.

- (a) The licensee shall maintain a legible, current, and accurate record for each resident based on services provided at the SRHCF.
- (b) At a minimum, resident records shall contain the following:
- (1) A copy of the resident's residential service agreement and/or admission contract and all documents required by He-P 805.16(c);
  - (2) Notwithstanding (1) above, financial records may be kept in a separate file;
  - (3) Identification data, including:
    - a. Vital information including the resident's name, date of birth, and marital status;
    - b. If the individual is receiving respite care as described in He-P 805.20, the resident's home address and phone number;
    - c. Resident's religious preference, if known;
    - d. Residents veteran status, if known; and
    - e. Name, address and telephone number of an emergency contact person;
  - (4) The name and telephone number of the resident's licensed practitioner(s);
  - (5) For individuals contracted by the SRHCF or the resident to provide services at the SRHCF, their name, employer, business address and telephone number;
  - (6) Resident's health insurance information;
  - (7) Copies of any executed legal orders and directives, such as guardianship orders issued under RSA 464-A, a durable power of attorney for healthcare, or a living will;
  - (8) A record of the health assessment in accordance with He-P 805.16(m) and (n);
  - (9) Written, dated and signed orders for the following:
    - a. All medications, treatments and special diets; and



- b. Laboratory services and consultations performed at the SRHCF;
  - (10) Results of any laboratory tests, X-rays or consultations performed at the SRHCF;
  - (11) All admission and progress notes;
  - (12) For services that are provided at the SRHCF by individuals who are not employed by the licensee, documentation shall include the name of the agency providing the services, the date services were provided, the name of the person providing services and a brief summary of the services provided;
  - (13) Documentation of any alteration in the resident's daily functioning such as:
    - a. Signs and symptoms of illness; and
    - b. Any action that was taken including practitioner notification;
  - (14) Documentation of medical or specialized care;
  - (15) Documentation of reportable incidents;
  - (16) The consent for release of information signed by the resident, guardian or agent, if any;
  - (17) Discharge planning and referrals;
  - (18) Transfer or discharge documentation, including notification to the resident, guardian or agent, if any, of involuntary room change, transfer or discharge, if applicable;
  - (19) The medication record as required by He-P 805.17(af)(4), (aj) and (ar);
  - (20) Information data sheet, which contains the information required by He-P 805.16(t);
  - (21) Documentation of nurse delegation as required by He-P 805.17(ai);
  - (22) Documentation of any accident or injuries occurring while in the care of the facility and requiring medical attention by a practitioner; and
  - (23) Documentation of a resident's refusal of any care or services.
- (c) The licensee shall document evidence of immunization against influenza and pneumococcal disease for all consenting residents and shall provide to its consenting employees annual immunizations against influenza, to include:
- (1) That immunizations shall be provided and reported in accordance with RSA 151:9-b, I-V; and
  - (2) The facility shall have a plan that identifies and documents, with dates, all residents and employees that have received or declined to receive immunizations.
- (d) Resident records and resident information shall be kept confidential and only provided in accordance with law.
- (e) The licensee shall develop and implement a written policy and procedure document that specifies the method by which release of information from a resident's record shall occur.
- (f) When not being used by authorized personnel, resident records shall be safeguarded against loss or unauthorized use or access.

(g) Records shall be retained for 4 years after discharge, except that when the resident is a minor, records shall be retained until the person reaches the age of 19, but no less than 4 years after discharge.

(h) The licensee shall arrange for storage of, and access to, resident records as required by (g) above in the event the SRHCF ceases operation.

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.20 Respite Care in SRHCF.

(a) The licensee shall only admit an individual for respite care services when the needs of the individual are compatible with the services and programs offered by the facility and the facility can meet the needs of the individual in accordance with He-P 805.15.

(b) When a temporary admission to an SRHCF occurs and the individual is scheduled for a stay of no more than 30 consecutive days as agreed upon by the individual and the licensee as part of a discharge plan, the licensee shall:

- (1) Obtain written verification signed by the resident, guardian or agent, if any, or personal representative, indicating they have been given a copy of the resident rights and responsibilities as required by RSA 151:20, I;
- (2) Obtain a signed admissions contract listing the services that shall be provided;
- (3) Obtain information regarding allergies, diagnoses, if any, and written and signed orders for medications, treatments, and special diets within 72 hours from the licensed practitioner;
- (4) Be permitted to use the prescription label on the medication container supplied by the individual as the licensed practitioner's order provided that:
  - a. The medication is in the original bottle as dispensed by the pharmacy;
  - b. The pharmacy label has not been altered in any manner; and
  - c. The prescription label indicates that the medication is still current;
- (5) Complete the RAT prior to or immediately on admission;
- (6) Identify the resident's history of wandering or unexplained absences; and
- (7) Obtain advanced directives information, if available.

(c) For planned recurrent respite care the resident shall be discharged but may be readmitted using the same admission documents completed within the previous 6 months, as long as there are no identified changes in the resident's condition or care needs.

(d) If the resident exceeds the 30-day time period, they shall no longer be considered respite care and a complete admission shall occur within 72 hours.

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.21 Food Services.

(a) The licensee shall provide food services that meet:

- (1) The US Department of Agriculture recommended dietary allowance as specified in the “Dietary Guidelines for Americans, 2005” available as noted in Appendix A;
  - (2) The nutritional needs of each resident; and
  - (3) The special dietary needs associated with health or medical conditions for each resident as identified on the RAT.
- (b) Each resident shall be offered at least 3 nutritious meals and snacks unless the resident chooses other options according to their admission contract.
- (c) Snacks shall be available between meals and at bedtime if not contraindicated by the resident’s care plan.
- (d) If a resident refuses the item(s) on the menu, a substitute shall be offered.
- (e) Each day’s menu shall be posted in a place accessible to food service personnel and residents.
- (f) A dated record of menus as served shall be maintained for at least the previous 4 weeks.
- (g) The licensee shall provide therapeutic diets to residents only as ordered by a licensed practitioner or other professional with prescriptive authority.
- (h) If a resident has a pattern of refusing to follow a prescribed diet, personnel shall document the reason for the refusal in the resident’s medical record and notify the resident’s licensed practitioner.
- (i) All food and drink provided to the residents shall be:
- (1) Safe for human consumption and free of spoilage or other contamination;
  - (2) Stored, prepared and served in a manner consistent with safe food handling practices for the prevention of food borne illnesses, including those set forth in He-P 2300;
  - (3) Served at the proper temperatures;
  - (4) Labeled, dated and stored at proper temperatures; and
  - (5) Stored so as to protect it from dust, insects, rodents, overhead leakage, unnecessary handling and all other sources of contamination.
- (j) The use of expired, unlabeled food or canned goods that have damage to their hermetic seal shall be prohibited and such goods shall be immediately discarded.
- (k) All food not in the original package shall be stored in labeled and dated containers designed for food storage.
- (l) All work surfaces shall be cleaned and sanitized after each use.
- (m) All dishes, utensils and glassware shall be in good repair, cleaned and sanitized after each use and properly stored.
- (n) All food service equipment shall be kept clean and maintained according to manufacturer’s guidelines.
- (o) Food service areas shall not be used to empty bedpans or urinals or as access to toilet and utility rooms.

(p) If soiled linen is transported through food service areas, the linen shall be in an impervious container.

(q) Trash receptacles in food service areas shall have covers and shall remain closed except when in use.

(r) All SRHCF personnel involved in the preparing and serving of food shall wash their hands and exposed portions of their arms with liquid soap and running water before handling or serving food.

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.22 Infection Control.

(a) The SRHCF shall appoint an individual who will oversee the development and implementation of an infection control program that educates and provides procedures for the prevention, control, and investigation of infectious and communicable diseases.

(b) The infection control program shall include written procedures for:

- (1) Proper hand washing techniques;
- (2) The utilization of universal precautions;
- (3) The management of residents with infectious or contagious diseases or illnesses;
- (4) The handling, storage, transportation and disposal of those items identified as infectious waste in Env-Wm 2604; and
- (5) The reporting of infectious and communicable diseases as required by He-P 301.

(c) The infection control education program shall address at a minimum the:

- (1) Causes of infection;
- (2) Effects of infections;
- (3) Transmission of infections; and
- (4) Prevention and containment of infections.

(d) Personnel infected with a disease or illness transmissible through food, fomites or droplets, shall not work in food service or provide direct care in any capacity until they are no longer contagious.

(e) Personnel infected with scabies or lice shall not provide direct care to residents or work in food services until such time as they are no longer infected.

(f) Personnel with a newly positive tuberculosis test or a diagnosis of suspected active pulmonary or laryngeal tuberculosis shall be excluded from the SRHCF until a diagnosis of tuberculosis is excluded or until the person is receiving tuberculosis treatment and has been determined to be noninfectious by a licensed practitioner.

(g) Personnel with an open wound who work in food service or provide direct care in any capacity shall cover the wound at all times by an impermeable, durable, tight fitting bandage.

(h) If the SRHCF has an incident of an infectious diseases reported in (b)(5) above, the facility shall contact the public health nurse in the county in which the facility is located and follow the instructions and guidance of the nurse.

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.23 Sanitation.

- (a) The licensee shall maintain a clean, safe and sanitary environment, both inside and outside.
- (b) The furniture, floors, ceilings, walls, and fixtures shall be clean, sanitary and in good repair.
- (c) A supply of potable water shall be available for human consumption and food preparation, pursuant to Env-Ws 315 and 316.
- (d) A supply of hot and cold running water shall be available at all times and precautions, such as temperature regulation, shall be taken to prevent a scalding injury to the residents.
- (e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations.
- (f) All resident bathing and toileting facilities shall be cleaned and disinfected as often as necessary to prevent illness or contamination.
- (g) Cleaning solutions, compounds and substances considered hazardous or toxic materials, as defined in RSA 147-A:2, VII, shall be distinctly labeled and legibly marked so as to identify the contents and stored in a place, such as a locked box, separate from food, medications and resident supplies.
- (h) Toxic materials shall not be used in a way that contaminates food, equipment or utensils or in any way other than in full compliance with the manufacturer's labeling.
- (i) Only individuals authorized under RSA 430:33 may apply pesticides, as defined by RSA 430:29, XXVI, in food storage, food preparation or dining areas.
- (j) Solid waste, garbage and trash shall be stored in a manner to make it inaccessible to insects and rodents, outdoor animals and facility pets.
- (k) In-house trash and garbage receptacles shall be emptied in a timely manner and lined, or cleaned and disinfected after emptying or when visibly soiled.
- (l) Laundry and laundry rooms shall meet the following requirements:
  - (1) Laundry and laundry rooms shall be kept separate from kitchen and dining areas;
  - (2) Clean linen shall be stored in a clean area and shall be separated from soiled linens at all times;
  - (3) Soiled materials, linens and clothing shall be transported in a laundry bag, sack or container and washed in a sanitizing solution used in accordance with the manufacturer's recommendations; and
  - (4) Soiled linens and clothing, which are considered contaminated with infectious waste under Env-Wm 2604 shall be handled as infectious waste.
- (m) Laundry rooms and bathrooms shall have non-porous floors.

(n) Sterile or clean supplies shall be stored in dust and moisture-free storage containers.

(o) Any SRHCF that has its own water supply and whose water has been tested and has failed to meet the acceptable levels identified in this section, or as required by the department of environmental services, shall notify the department.

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.24 Physical Environment.

(a) The physical environment shall be maintained, inside and outside, so as to provide for the health, safety, well-being and comfort of resident(s) and personnel, including reasonable accommodations for residents and personnel with disabilities.

(b) Equipment providing heat within an SRHCF including, but not limited to, gas furnace or boiler, oil furnace or boiler, wood stove or pellet stove shall:

(1) Maintain a temperature as follows, except where residents have control of the thermostat in their own room:

a. Be at least 65 degrees Fahrenheit at night; and

b. Be at least 70 degrees Fahrenheit during the day if the resident(s) are present; and

(2) Be serviced once a year or as recommended by the manufacturer with written documentation of such service retained for at least 4 years.

(c) Electric heating systems shall be exempt from (a)(2) above.

(d) Portable space heating devices shall be prohibited, unless the following are met:

(1) Such devices are used only in employee areas where personnel are present and awake at all times; and

(2) The heating elements of such devices do not exceed 212 degrees Fahrenheit;

(e) Unvented fuel-fired heaters shall not be used in any SRHCF.

(f) Plumbing shall be sized, installed, and maintained in accordance with the state plumbing code as adopted under RSA 329-A:15 and RSA 155-A.

(g) Ventilation shall be provided in all enclosed living areas by means of a mechanical ventilation system or one or more screened windows that can be opened.

(h) Each resident bedroom shall have natural lighting provided by at least one operable window with a screen to the outside, which is of a size equivalent to or greater than 8% of the room's gross square footage.

(i) The number of sinks, toilets, tubs or showers shall be in a ratio of one for every 6 individuals, unless household members and personnel have separate bathroom facilities not used by residents.

(j) All showers and tubs shall have slip resistant floors and surfaces which are intact, easily cleanable, and impervious to water.

(k) All hand-washing facilities shall be provided with hot and cold running water.

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(l) In an SRHCF licensed for 16 or fewer residents, there shall be at least 80 square feet per room with a single bed and 160 square feet per room with 2 beds, exclusive of space required for closets, wardrobe and toilet facilities.

(m) In an SRHCF licensed for 17 or more residents, there shall be at least 100 square feet for each resident in each private-bedroom and at least 80 square feet for each resident in a semi- private bedroom, exclusive of space required for closets, wardrobes and toilet facilities;

(n) Bedrooms in an SRHCF licensed prior to the 2006 effective date of these rules shall:

- (1) Be exempt from (l) and (m) above;
- (2) Provide at least 80 square feet per resident in a private room; and
- (3) Provide at least 70 square feet per resident in a semi-private room.

(o) The space requirements in (l), (m), and (n) above shall be exclusive of space required for closets, wardrobes, and bathroom.

(p) Each bedroom shall:

- (1) Contain no more than 2 beds;
- (2) Have its own separate entry to permit the resident to reach his/her bedroom without passing through the room of another resident;
- (3) Have a side hinge door and not a folding or sliding door or a curtain;
- (4) Not be used simultaneously for other purposes;
- (5) Be separated from halls, corridors and other rooms by floor to ceiling walls;
- (6) Be located on the same level as the bathroom facilities, if the resident has impaired mobility as identified by the RAT; and
- (7) If a licensed bedroom is temporarily being utilized for another purpose, it shall retain the capability of being restored to meet the requirements of a licensed bedroom without requiring additional construction or renovation.

(q) The licensee shall provide the following for the residents' use, as needed, except as requested by the resident or guardian and documented in their resident record:

- (1) A bed appropriate to the needs of the resident;
- (2) A firm mattress that complies with Saf-C 6000;
- (3) Clean linens, blankets and a pillow;
- (4) A bureau;
- (5) A mirror;
- (6) A bedside table;
- (7) A lamp;
- (8) A chair;

- (9) A closet or storage space for personal belongings; and
- (10) Window blinds, shades or curtains that provide privacy.
- (r) The resident may use his or her own personal possessions provided they do not pose a risk to the resident or others.
- (s) The licensee shall provide the following rooms to meet the needs of residents:
  - (1) One or more living rooms or multi-purpose rooms; and
  - (2) Dining facilities with a seating capacity capable of meeting the needs of all residents.
- (t) Each licensee shall have a communication system in place so that all residents can effectively contact personnel when they need assistance with care or in an emergency.
- (u) Lighting shall be available to allow residents to participate in activities such as reading, needlework or handicrafts.
- (v) All bathroom, bedroom and closet door latches or locks shall be designed for easy opening from the inside and outside in an emergency.
- (w) During seasons when insects are active, screens shall be provided for:
  - (1) Doors;
  - (2) Windows; and
  - (3) Other openings to the outside.
- (x) Doors that are self-closing and remain closed when not in use shall be exempt from the requirement in (w) above.

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.25 Fire Safety.

- (a) SRHCFs shall meet one of the following requirements:
  - (1) All SRHCFs established after October 25, 2006, shall meet the Health Care Occupancy Chapter of NFPA 101 as adopted by the commissioner of the department of safety in Saf-C 6000, and as amended pursuant to RSA 153:5, I, by the state fire marshal with the board of fire control; or
  - (2) All SRHCFs established prior to October 25, 2006, shall meet at a minimum the Residential Board and Care Chapter of NFPA 101 as adopted by the commissioner of the department of safety in Saf-C 6000, and as amended pursuant to RSA 153:5, I, by the state fire marshal with the board of fire control.
- (b) All SRHCFs shall have:
  - (1) Smoke detectors on every level and in every bedroom that are interconnected and either hardwired, powered by the SRHCF's electrical service, or wireless, as approved by the state fire marshal for the SRHCF;



- (2) At least one ABC type fire extinguisher on every level or every 75 feet of corridor as required by NFPA 10; and
  - (3) An approved carbon monoxide monitor on every level.
- (c) Immediately following any fire or emergency situation, licensees shall notify the department by phone to be followed by written notification within 72 hours, with the exception of:
  - (1) A false alarm or emergency medical services (EMS) transport for a non-emergent reason; or
  - (2) Emergency EMS transport related to pre-existing conditions.
- (d) The written notification required by (c) above shall include:
  - (1) The date and time of the incident;
  - (2) A description of the location and extent of the incident, including any injury or damage;
  - (3) A description of events preceding and following the incident;
  - (4) The name of any personnel or residents who were evacuated as a result of the incident, if applicable;
  - (5) The name of any personnel or residents who required medical treatment as a result of the incident, if applicable; and
  - (6) The name of the individual the licensee wishes the department to contact if additional information is required.
- (e) If the licensee has chosen to allow smoking, a designated smoking area shall be provided which has, at a minimum:
  - (1) A dedicated ventilation system, so that smoke or odors cannot escape or be detected outside the designated smoking room;
  - (2) Walls and furnishings constructed of non-combustible materials; and
  - (3) Metal waste receptacles and safe ashtrays.
- (f) A copy of the fire safety plan including fire drill actions shall be made available to and reviewed with the resident, or the resident's guardian or a person with durable power of attorney (DPOA), at the time of admission and a summary of the resident's responsibilities shall be provided to the resident. Each resident shall receive an individual fire drill walk-through within 5 days of admission, as appropriate.
- (g) The fire safety plan shall be reviewed and approved as follows:
  - (1) A copy of the fire safety plan shall be made available, annually and whenever changes are made, to the local fire chief for review and approval;
  - (2) The local fire chief shall give written approval initially to all fire safety plans; and
  - (3) If changes are made to the plan, they shall be submitted to the local fire chief for review and approval, as appropriate, prior to the change.
- (h) Fire drills shall be conducted as follows:

(1) For buildings constructed to the Residential Board and Care or One and Two Family Dwelling Chapters of the Life Safety Code (NFPA 101), the following shall be required:

- a. The administration of every residential board and care facility shall have, in effect and available to all supervisory personnel, written copies of a plan for protecting all persons in the event of fire, for keeping persons in place, for evacuating persons to areas of refuge, and for evacuating persons from the building when necessary;
- b. Residents shall be trained to assist each other in case of fire or emergency to the extent that their physical and mental abilities permit them to do so, without additional personal risk;
- c. All SRHCF facilities shall conduct fire drills not less than 6 times per year on a bimonthly basis, with not less than 2 drills conducted during the night when residents are sleeping. Actual exiting from windows shall not be required, however opening the window and signaling for help shall be an acceptable alternative;
- d. The drills shall involve the actual evacuation of all residents to an assembly point, as specified in the emergency plan, and approved by the department and the local fire authority based on construction of the building and shall provide residents with experience in egressing through all exits and means of escape;
- e. Facilities shall complete a written record of fire drills that includes the following:
  1. The date and time including AM/PM the drill was conducted and if the actual fire alarm system was used;
  2. The location of exits used;
  3. The number of people, including residents, personnel, and visitors, participating at the time of the drill;
  4. The amount of time taken to completely evacuate the facility;
  5. The name and title of the person conducting the drill;
  6. A list of problems and issues encountered during the drill;
  7. A list of improvements and resolution to the issues encountered during the fire drill; and
  8. The names of all staff members participating in the drill;
- f. At no time shall a staff member who has not participated in a fire drill be the only staff member on duty within the facility;
- g. At least annually, the facility shall conduct a resident Fire Safety Evacuation Scoring System (FSES) as listed in NFPA 101A, Alternatives to Life Safety, to determine the residents needs during a fire drill including, but not limited to, mobility, assistance to evacuate, staff needed, risk of resistance, residents ability to evacuate on their own and choose an alternate exit; and
- h. The fire drills for facilities built to the Residential Board and Care chapter of the Life Safety Code (NFPA 101), shall be permitted to be announced, in advance, to the residents just prior to the drill;

(2) For all SRHCFs that were originally constructed to meet the Health Care Occupancy Chapter of Life Safety Code, NFPA 101 as adopted by the commissioner of the department of safety in Saf-C 6000, and as amended pursuant to RSA 153:5, I, by the state fire marshal with the board of fire control, and the rules and regulations adopted and enforced by the state fire marshal's office and/or the municipality or have been physically evaluated, renovated and approved by a New Hampshire licensed fire protection engineer, the NH state fire marshal's office and the department to meet the Health Care Occupancy Chapter, the following shall be required:

- a. The facility shall develop a fire safety plan, which provides for the following:
  1. Use of alarms;
  2. Transmission of alarms to fire department;
  3. Emergency phone call to fire department;
  4. Response to alarms;
  5. Isolation of fire;
  6. Evacuation of immediate area;
  7. Evacuation of smoke compartment;
  8. Preparation of floors and building for evacuation;
  9. Extinguishment of fire; and
  10. Written emergency telephone numbers for key staff, fire and police departments, poison control center, 911, and ambulance service(s);
- b. Fire drills shall be conducted quarterly on each shift to familiarize facility personnel including, but not limited to, medical personnel, maintenance engineers, and administrative staff, with the signals and emergency action required under varied conditions;
- c. Fire drills shall include the transmission of a fire alarm signal and simulation of emergency fire conditions;
- d. Buildings that have a shelter in place, also known as defend in place, shall have this plan approved by the department and their local fire chief and shall be constructed to meet the Health Care Occupancy Chapter of the Life Safety Code;
- e. When drills are conducted between 9:00 p.m. and 6:00 a.m., a coded announcement shall be permitted to be used instead of audible alarms;
- f. If the facility has an approved defend/shelter in place plan, then all personnel, residents, and visitors shall evacuate to that appropriate location or to the outside of the building to a selected assembly point and drills shall be designed to ensure that residents shall be given the experience of evacuating to the appropriate location or exiting through all exists;
- g. Facilities shall complete a written record of fire drills and include the following:
  1. The date and time including AM/PM the drill was conducted and if the actual fire alarm system was used;

2. The location of exits used;
  3. The number of people, including residents, personnel, and visitors, participating at the time of the drill;
  4. The amount of time taken to completely evacuate the facility or to an approved area of refuge or through a horizontal exit;
  5. The name and title of the person conducting the drill;
  6. A list of problems and issues encountered during the drill;
  7. A list of improvements and resolution to the issues encountered during the fire drill; and
  8. The names of all staff members participating in the drill; and
- h. At no time shall a staff member who has not participated in a fire drill be the only staff member on duty within the facility; and
- (3) The facility shall conduct a fire drill in the presence of a representative of the department, state fire marshal's office, or the local fire department upon

Source. #8746, eff 10-25-06; ss by #10813, eff 4-21-15

He-P 805.26 Emergency Preparedness.

(a) Each facility shall have an individual or group, known as an emergency management committee, with the authority for developing, implementing, exercising, and evaluating the emergency management program. The committee shall include the facility administrator and others who have knowledge of the facility and the capability to identify resources from key functional areas within the facility and shall solicit applicable external representation, as appropriate.

(b) The emergency management committee shall develop and institute a written Emergency Preparedness Plan (plan) to respond to a disaster or an emergency.

(c) The plan in (b) above shall:

- (1) Include site-specific plans for the protection of all persons on-site in the event of fire, natural disaster, or severe weather and human-caused emergency to include, but not be limited to, missing residents and bomb threat;
- (2) Be approved by the local emergency management director and reviewed and approved, as appropriate, by the local fire department;
- (3) Be available to all personnel;
- (4) Be based on realistic conceptual events;
- (5) Be modeled on the Incident Command System (ICS) in coordination with local emergency response agencies;
- (6) Provide that all personnel designated or involved in the emergency operations plan of the facility shall be supplied with a means of identification, such as vests, baseball caps, or hard hats, which shall be worn at all times in a visible location during the emergency;

(7) Include the facility's response to both short-term and long-term interruptions in the availability of utility service in the disaster or emergency, including establishing contingency plans for continuity of essential building systems or evacuation to include the following, as applicable:

- a. Electricity;
- b. Water;
- c. Ventilation;
- d. Fire protection systems;
- e. Fuel sources;
- f. Medical gas and vacuum systems, if applicable; and
- g. Communications systems;

(8) Include a plan for alerting and managing staff in a disaster, and accessing Critical Incident Stress Management (CISM), if necessary;

(9) Include the management of residents, particularly with respect to physical and clinical issues to include:

- a. Relocation of residents with their medical record including the medicine administration records, if time permits, as detailed in the emergency plan;
- b. Access, as appropriate, to critical materials such as pharmaceuticals, medical supplies, food supplies, linen supplies and industrial and potable water; and
- c. How to provide security during the disaster;

(10) Identify a designated media spokesperson to issue news releases and an area where the media can be assembled, where they won't interfere with the operations of the facility;

(11) Reflect measures needed to restore operational capability with consideration of fiscal aspects because of restoration costs and possible cash flow losses associated with the disruption;

(12) Include an educational, competency-based program for the staff, to provide an overview of the components of the emergency management program and concepts of the ICS and the staff's specific duties and responsibilities; and

(13) If the facility is located within 10 miles of a nuclear power plant and is part of the New Hampshire plan for radiological emergency preparedness, include this plan in the event of a radiological disaster or emergency.

(d) The facility shall conduct and document with a detailed log, including personnel signatures, 2 drills a year at least one of which shall rehearse mass casualty response for the facility with emergency services, disaster receiving stations or both.

(e) For the purposes of emergency preparedness, each licensee shall have the following supplies of foods and water maintained on the premises based on the average daily census of residents and staff:

- (1) Enough refrigerated, perishable foods for a 3-day period;

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- (2) Enough non-perishable foods for a 7-day period; and
- (3) Potable water for a 3-day period.

Source. #10813, eff 4-21-15

**Appendix A: Incorporation by Reference Information**

<b>Rule</b>	<b>Title</b>	<b>Obtain at:</b>
He-P 805.07(h)-(j)	Facility Guidelines Institute “Guidelines for Design and Construction of Health Care Facilities,” “Residential Healthcare” chapter, 2010 edition	This publication is published and may be obtained by contacting the Facilities Guidelines Institute (formerly the American Institute of Architects) either by phone: 1-800-242-2626; or in writing via <a href="http://www.ashestore.com">www.ashestore.com</a> . This publication is available in three formats: Bound Book Catalog #055373, Secure PDF on CD Catalog # 055374, and Three-Hole Punched Loose Leaf Catalog #055375. The cost of this publication is \$168.00 each.
He-P 805.18(m)(3)	Centers for Disease Control and Prevention “Guidelines for Preventing the Transmission of <i>M. tuberculosis</i> in Health-Care Settings,” 2005 edition	Available free of charge from the CDC website at <a href="http://www.cdc.gov">www.cdc.gov</a> .
He-P 805.21(a)(1)	“Dietary Guidelines for Americans, 2005”	Publisher: US Department of Health and Human Services, & US Department of Agriculture  Available free of charge from the HHS/USDA website at: <a href="http://www.health.gov/dietaryguidelines/dga2005/document/">http://www.health.gov/dietaryguidelines/dga2005/document/</a>  This publication can also be ordered by calling the U.S. Government Printing Office (GPO) at (866)512-1800 and asking for stock number 001-000-04719-1, or by accessing the GPO Online Bookstore at <a href="http://bookstore.gpo.gov">http://bookstore.gpo.gov</a> .

**Appendix B**

<b>Rule</b>	<b>Specific State or Federal Statutes the Rule Implements</b>
He-P 805.01 – 805.03	RSA 151:9, I; RSA 151:9, VII(a)(2)
He-P 805.04	RSA 151:4, I – III-a and IV; RSA 151:9, I(c);
He-P 805.05 – 805.06	RSA 151:4, I – III-a; RSA 151:5; RSA 151:7, I; RSA 151:9, I(c) & (d)
He-P 805.07	RSA 151:9, I; RSA 151:3-a; RSA 151:6, II; RSA 151:9, I(a)
He-P 805.08 – 805.10	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 805.11	RSA 151:6, I; RSA 151:9, I(e)
He-P 805.12 – 805.13	RSA 151:7, II – IV; RSA 151:7-a; RSA 151:8; RSA 151:9, I(f), (g), (h) & (l); RSA 151:16-a
He-P 805.14 – 805.26	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 805.25(a) and (h)	NFPA 101